ORDINANCE NO. 05-918

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, AMENDING THE SUBDIVISION ORDINANCE OF THE CITY, SAME BEING ORDINANCE NO. 04-913 PASSED AND APPROVED ON THE 21ST DAY OF JULY 2004, AS AMENDED, TO PROVIDE AN EXCEPTION FROM THE PLATTING REQUIREMENTS CONTAINED THEREIN FOR TRACTS GREATER THAN TEN (ACRES); CONTAINING OTHER MATTERS RELATED TO THE SUBJECT; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED $2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY

* * * * * *

WHEREAS, the City Council passed and approved an ordinance governing and regulating subdivisions within the City and its extraterritorial jurisdiction, same being Ordinance No. 04-913, on the 21st day of July, 2004; and

WHEREAS, the City Council desires to amend Ordinance No. 04-913 to provide an exception to the platting requirements for all divisions of land where all parcels are ten (10) acres or larger after the subdivision; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. Subsection E of Section 4 of Ordinance No. 04-913, as amended, originally passed and approved on the 21st day of July, 2004 is hereby amended by adding a new subparagraph 2 thereto to read as follows:

> "2. subdivisions of land in which each parcel is ten (10) acres or greater following the subdivision, where each parcel has access and no public improvement is being dedicated."

Section 2. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed $2000. Each day of violation shall constitute a separate offense.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 19th day of January, 2005.

Michael Dinges, Mayor

ATTEST:

Kathy Mayfield, City Secretary

Alderman - John Smart	AYE
Alderman - Bill Archer	AYE
Alderman - J B Collins, Jr.	AYE
Alderman - Owen Bement	AYE
Alderman - Colice Watts	AYE

ORDINANCE NO. 05-919

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS AMENDING ORDINANCE NO. 03-904 PASSED AND APPROVED ON THE 19TH DAY OF NOVEMBER, 2003, BY AMENDING THE DEFINITION OF APPRENTICE ELECTRICIAN, JOURNEYMAN ELECTRICIAN, AND MASTER ELECTRICIAN TO COMPLY WITH STATE LAW; AMENDING THE REQUIREMENTS FOR AN ELECTRICIAN'S LICENSE TO COMPLY WITH STATE LAW; DELETING THE BOND REQUIREMENTS FOR LICENSED ELECTRICIANS; DELETING THE SUSPENSION, REVOCATION AND APPEAL PROCEDURES FOR LICENSED ELECTRICIANS; PROVIDING A PENALTY NOT TO EXCEED $2,000.00 FOR ANY VIOLATION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.

* * * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. Section 1 of Ordinance No. 03-904, passed and approved on the 19th Day of November 2003, is hereby amended by deleting a portion of the definitions of Apprentice Electrician, Journeyman Electrician, and Master Electrician, and inserting new language in its place as follows:

> "*Apprentice Electrician* shall mean a person licensed as an apprentice electrician as recognized under Section 1, Title 8, Chapter 1305, Electricians, of the Texas Occupations Code.
>
> *Journeyman Electrician* shall mean a person licensed as a journeyman electrician as recognized under Section 1, Title 8, Chapter 1305, Electricians, of the Texas Occupations Code.
>
> *Master Electrician* shall mean a person licensed as a master electrician as recognized under Section 1, Title 8, Chapter 1305, Electricians, of the Texas Occupations Code."

Section 2. Section 50 of Ordinance No. 03-904, passed and approved on the 19th Day of November 2003, is hereby amended by deleting a portion thereof and substituting therefor new language to read as follows:

> "**Section 50. Application for Electrician License.** Every application for a license as a master electrician, journeyman electrician, apprentice electrician, or master sign electrician shall be made upon a form furnished by the City's electrical inspector. Every application shall state the name, date of birth, residence and business address of the applicant. Each applicant shall supply a true and correct copy of their current State of Texas electrical license with their license application. The license fee, as prescribed by resolution of the City Council, shall accompany each application."

Section 3. Section 52 of Ordinance No. 03-904, passed and approved on the 19th Day of November 2003, is hereby deleted in its entirety as follows:

Section 4. Section 59 of Ordinance No. 03-904, passed and approved on the 19th Day of November 2003, is hereby deleted in its entirety as follows:

Section 5. Section 60 of Ordinance No. 03-904, passed and approved on the 19th Day of November 2003, is hereby deleted in its entirety as follows:

Section 6. Section 61 of Ordinance No. 03-904, passed and approved on the 19th Day of November 2003, is hereby deleted in its entirety as follows:

Section 7. Section 62 of Ordinance No. 03-904, passed and approved on the 19th Day of November 2003, is hereby deleted in its entirety as follows:

Section 8. Section 63 of Ordinance No. 03-904, passed and approved on the 19th Day of November 2003, is hereby deleted in its entirety as follows:

Section 9. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed $2000. Each day of violation shall constitute a separate offense.

Section 10. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 11. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 19 day of January 2005.

Michael Dinges, Mayor

ATTEST:

Kathy Mayfield, City Secretary

Alderman - John Smart	**AYE**
Alderman - Bill Archer	**AYE**
Alderman - J B Collins, Jr.	**AYE**
Alderman - Owen Bement	**AYE**
Alderman - Colice Watts	**AYE**

ORDINANCE NO. 05-920

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, PROVIDING DEFINITIONS ADOPTING THE 2000 VERSION OF THE *INTERNATIONAL PLUMBING CODE* AS PUBLISHED BY THE INTERNATINAL CODE CONGRESS; REQUIRING THE LICENSING OF PLUMBERS AND AIR CONDITIONING AND REFRIGERATION CONTRACTORS PRIOR TO THE ISSUANCE OF A PERMIT ALLOWING ANY SUCH WORK; SETTING OUT THE REQUIREMENTS OF SUCH LICENSES AND PERMITS; CONTAINING OTHER MATTERS ON THE SUBJECT; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED $2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.

* * * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. Definitions.

Air conditioning and refrigeration contracting shall mean performing or offering to perform the design, installation, construction, repair, maintenance, service, or modification of equipment or a product in an environmental air conditioning system, a commercial refrigeration system, or a process cooling or heating system.

Air conditioning and refrigeration contracting company shall mean a person who or business entity that engages in air conditioning and refrigeration contracting for the public.

Air conditioning and refrigeration contractor shall mean a person who engages in air conditioning and refrigeration contracting.

Air conditioning and refrigeration maintenance work shall mean all work, including repair work, required for the continued normal performance of an environmental air conditioning system, a process cooling or heating system, a commercial refrigeration system, or commercial refrigeration equipment. The term does not include:

(A) the total replacement of a system; or

(B) the installation or repair of a boiler or pressure vessel that must be installed in accordance with rules adopted by the commission under Chapter 755, Health and Safety

Code.

Journeyman plumber shall mean a person other than a master plumber as recognized under Section 1, Title 8, Chapter 1301, Plumbers, of the Texas Occupations Code.

Master plumber shall mean a person recognized under Section 1, Title 8, Chapter 1301, Plumbers, of the Texas Occupations Code.

Plumber's apprentice shall mean a person other than a master plumber, journeyman plumber, or tradesman plumber-limited license holder as recognized under Section 1, Title 8, Chapter 1301, Plumbers, of the Texas Occupations Code.

Plumber shall mean a person licensed as a plumber as recognized under Section 1, Title 8, Chapter 1301, Plumbers, of the Texas Occupations Code.

Plumbing shall mean:

(A) a fixture, appurtenance, appliance, or piping, including a disposal system, used in or around a building in which a person lives or works or in which persons assemble, to:

(i) supply or recirculate water, other liquid, or gas; or

(ii) eliminate sewage for a personal or domestic purpose;

(B) a fixture, appurtenance, appliance, or piping used outside a building to connect the building to:

(i) a supply of water, other liquid, or gas on the premises; or

(ii) the main in the street or alley or at the curb;

(C) a fixture, appurtenance, appliance, or piping, including a drain or waste pipe, used to carry wastewater or sewage from or within a building to:

(i) a sewer service lateral at the curb or in the street or alley; or

(ii) a disposal or septic terminal that holds private or domestic sewage; or

(D) the installation, repair, service, or maintenance of a fixture, appurtenance, appliance, or piping described by Paragraph (A), (B), or (C).

<u>Section 2</u>. Adoption of Code; Compliance Required; Conflicts; Service Requirements.

(a) Any and all plumbing work placed in or on any building or structure within the corporate boundaries of the City shall be installed in conformity with the regulations and standards set forth in the 2000 edition of the International Plumbing Code, which is hereby adopted, and a copy of which is on file in the City Secretary's office; other applicable ordinances of the City; and statutes and administrative rules and regulations of the state agencies thereof.

(b) Where local rules and regulations are set forth in this ordinance, they shall take preference over any rules conflicting therewith. Minimum service requirements shall be as required by the serving utility companies.

Section 3. **Permits Required.**

(a) No person shall undertake or complete any plumbing installation or install, erect or alter any plumbing work, or engage in any air conditioning and refrigeration contracting or maintenance work in or on any building or premises in the city without first securing a permit therefor from the City. No permit shall be issued for plumbing work or air conditioning and refrigeration contracting or maintenance work except that which is authorized under this ordinance.

(b) In cases where licenses, permits, fees and bonds are required for the installation or repair of plumbing work for any purpose, such plumbing work or air conditioning and refrigeration work shall be installed or repaired in conformity with such provisions of this ordinance as are applicable.

Section 4. **Who May Obtain Permit.**

(a) Except as otherwise specifically provided in this ordinance, no permit shall be issued to any person who is not the holder of a valid unexpired master plumber's license or air conditioning and refrigeration contractor's license. A master plumber who is employed as a master plumber for a person shall take out permits only for that person and shall supervise, direct and control the work for which the plumbing permit is obtained. A master plumber who is engaged in the plumbing business for himself shall take out plumbing permits for his business only and no plumbing permits shall be taken out by any master plumber who does not supervise, direct and control the plumbing work for which the permit is obtained.

(b) A person performing repairs and maintenance work with his own hands in a dwelling owned by him and registered in the city tax rolls as his homestead may be issued a permit to do plumbing and air conditioning and refrigeration contracting work on his homestead.

Section 5. **Application for Permit.** Applications for permits required by this ordinance must be made in writing by the person employed to do the work, or his authorized agent as provided in Section 4 of this ordinance, and will be submitted upon forms provided by the City for that purpose. Such application shall contain:

(1) Date application is submitted;

(2) Name of owner and name of person employed to do the work;

(3) Name of person actually presenting application to the City;

(4) Exact location of the property where work is to be done;

(5) A fee, appropriate to the number and kinds of installations to be made in the amount specified in the schedule contained in Section 6 of this ordinance; and

(6) A description of the work to be performed.

Section 6. Schedule of Fees. Before any permit will be granted for the installation or alteration of plumbing or air conditioning and refrigeration contracting work, the licensed professional making application for such permit shall pay to the City the fees in such amount as established by resolution of the City Council.

Section 7. Issuance of Permit. When the City finds the application to be correct, and the plans and diagram or specifications are approved and the required fees have been paid, he shall cause the permit to be issued. Upon receipt of such permit, the plumber or air conditioning and refrigeration contractor may start the proposed job and make the installation described in his application, requesting inspection by the inspector in the proper sequence as the work progresses.

Section 8. Unspecified Work Not Authorized. No permit shall be deemed to authorize anything not stated in the application, and for any misrepresentation in such application the permit shall be suspended; and if such misrepresentation appears to be willful, the permit shall be revoked.

Section 9. Terms of Permit. If the work authorized by a permit is not begun within 90 days from the date thereof, such permit shall thereupon and thereafter be null and void; and before doing any further work at the location designated in such permit, a new permit must be obtained in like manner as the first, and only upon payment of such fees and deposits as are specified in this ordinance. The permit shall be valid for 12 months. However, the City may extend the initiation or expiration date where it finds that extraordinary circumstances beyond the control of the permit holder have made it impossible to initiate or complete the work before the original date.

Section 10. Separate Permit Required. A separate permit shall be required for each separate building, store space or apartment, whether such unit is metered separately or conjunctively, and a service permit shall be taken on all units, whether supplied from a central metering station or directly from the supply agency. If the permittee does not complete the work for which the permit has been issued, then the contractor who finished such work shall apply for a new permit on such work.

Section 11. Permit Not Transferable. Each permit issued under the terms of this ordinance shall be personal to the permittee and shall not be assigned or transferred to any other person; and, except as otherwise specifically provided in this ordinance, it shall be unlawful:

(1) For one person to obtain a permit in the name of another person, except as provided in Section 4(a) of this ordinance.

(2) For one person to do or perform any work under the permit issued to another person.

(3) For one person to suffer, allow or permit another person to do or perform any work under the permit under such other person's name.

Section 12. Licenses Required. Except as otherwise provided in this ordinance, no person shall engage in the business of contracting for, installing, altering or repairing any plumbing or air conditioning and refrigeration contracting or maintenance work within the City which is regulated by this ordinance unless such person shall hold a valid, unexpired license as specified in this ordinance.

Section 13. Application for License. Every application for a license as required herein shall be made upon a form furnished by the City. Every application shall state the name, date of birth, residence and business address of the applicant. The applicant shall supply a true and correct copy of their license issued by the State of Texas. The license fee, as prescribed by resolution of the City Council, shall accompany each application.

Section 14. Term and Renewal of License. No license under this ordinance shall be issued for more than a year, and such license may be renewed from year to year upon application by the holder of such license. All licenses shall expire on December 31 of each year. Licenses shall be renewed before April 1 each year thereafter upon payment of such fees as are established by resolution of the City Council, and made payable to the City of Fulshear; provided, of course, that such license has not been canceled prior thereto.

Section 15. Issuance of License. Upon the submission of satisfactory proof that an applicant has successfully completed requirements of this ordinance, the City, upon payment of such fees and upon fulfillment of such other requirements as are specified in this ordinance, shall issue to each applicant the class of license that such person is qualified to receive under the provisions of this ordinance.

Section 16. Restriction on Work Beyond Scope of License. It shall be unlawful for the holder of any license issued under the provisions of this ordinance to perform any work in the described in this ordinance, other than such business or work authorized by the class of license or permit held by him. The master or journeyman plumber responsible for a project shall be present on the site whenever unlicensed labor is being used to install plumbing materials, products, or equipment.

Section 17. License Not Transferable. It shall be unlawful for any person holding a license issued hereunder to transfer such license or allow the use of such license, directly or indirectly, by any other person for the purpose of obtaining a permit to do work as specified in this ordinance.

Section 18. **Duplicate Licenses.** If a license issued under the provisions of this ordinance is lost or destroyed, the person to whom such license was issued may obtain a duplicate or substitute thereof upon furnishing satisfactory proof to the City that such license was lost or destroyed and upon payment of a fee established by resolution of City Council.

Section 19. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed $2000. Each day of violation shall constitute a separate offense.

Section 20. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 21. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 19 day of January 2005.

Michael Dinges, Mayor

ATTEST:

Kathy Mayfield, City Secretary

Alderman - John Smart	**AYE**
Alderman - Bill Archer	**AYE**
Alderman - J B Collins, Jr.	**AYE**
Alderman - Owen Bement	**AYE**
Alderman - Colice Watts	**AYE**

ORDINANCE NO. 05-921

AN ORDINANCE OF THE CITY OF FULSHEAR, PROVIDING FOR THE HOLDING OF A GENERAL ELECTION ON MAY 17, 2005, FOR THE PURPOSE OF ELECTING (2) ALDERMEN; AND PROVIDING DETAILS RELATING TO THE HOLDING OF SUCH ELECTION.

* * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. In accordance with the general laws and Constitution of the State of Texas, a General Municipal Election is hereby called and ordered for the first Saturday in May 2005, the same being the 7th day of said month, at which election all qualified voters of the City may vote for the purpose of electing two (2) Aldermen.

Section 2. No person's name shall be placed upon the official ballot as a candidate for Alderman unless such person shall have filed his or her sworn application, as provided by Section 141.031 of the TEXAS ELECTION CODE, with the City Secretary of the City at the City Offices, located at 30603 F.M. 1093, Fulshear, Texas 77441, not later than five o'clock (5:00) p.m. on the sixty-second (62nd) day before the date of such election. The City Secretary shall note of the face of each such application the date and time of its filing.

Section 3. The present boundaries of the City constituting one election precinct, the polls shall be open for voting from seven o'clock (7:00) a.m. until seven o'clock (7:00) p.m. at the following polling place, and the following are hereby appointed officers to conduct the election at said polling place:

POLLING PLACE

City Hall

City of Fulshear

30603 F.M. 1093

Fulshear, Texas 77441

ELECTION OFFICERS

Sandra DeVore	Presiding Judge
Patricia Erwin	Alternate Presiding Judge

The City Secretary is hereby authorized and directed to provide a copy of this Ordinance to each judge as written notice of the appointment, as required by Section 32.009 of the TEXAS ELECTION CODE.

The Presiding Judge shall appoint no more than one (1) clerk to assist in the holding of said election. Said election officers shall also serve as the early voting ballot board for such election; and the Presiding Judge of the election precinct shall also serve as the presiding officer of such board. The hourly rate of pay shall be $6.00 and each election officer shall not exceed fourteen (14) hours.

Section 4. Mrs. Kathryn Mayfield, City Secretary, is hereby appointed clerk for early voting; the appointment of a deputy clerk or clerks for such voting by the City Secretary shall be in accordance with Sections 83.031 et seq. Of the TEXAS ELECTION CODE.

The City Hall

City of Fulshear

30603 F.M. 1093

Fulshear, Texas 77441

is hereby designated as the place for early voting for said election. Said clerks shall keep said office open for at least eight (8) hours, that is, from nine o'clock (9:00) a.m. until five o'clock (5:00) p.m., on each day for early voting which is not a Saturday, a Sunday, or an official state holiday, beginning on the seventeenth (17th) day and continuing through the fourth (4th) day preceding the date of said election. Said clerks shall not permit anyone to vote early by personal appearance on any day which is not a regular working day for the clerk's office, and under no circumstances shall they permit anyone to vote by personal appearance at any time when such office is not open to the public. The above-described place for early voting is also the clerk's mailing address to which ballot applications and ballots voted by mail may be sent. The early voting clerk, in accordance with the provisions of the TEXAS ELECTIONS CODE, shall maintain a roster listing each person who votes by personal appearance and each person to whom a ballot to be voted by mail is sent. The roster shall be maintained in a form approved by the Secretary of State.

Section 5. Paper ballots shall be used for early voting and for voting on Election Day, in accordance with the TEXAS ELECTION CODE. All expenditures necessary for the conduct of the election, purchase of materials, and the employment of all election officials are hereby authorized in accordance with the TEXAS ELECTION CODE.

Section 6. The City Secretary is hereby authorized and directed to furnish all necessary election supplies to conduct such election.

Section 7. The order in which the names of the candidates are to be printed on the ballot shall be determined by a drawing by the City Secretary, as provided by Section 52.094 of the TEXAS ELECTION CODE. The City Secretary shall post a notice in her office, at least seventy-two (72) hours prior to the date on which the drawing is to be held, of the time and place of the drawing, and shall also give personal notice to any candidate who makes written request for such notice and furnishes to the City Secretary a self-addressed, stamped envelope. Each candidate involved in the drawing, or a representative designated by such candidate, shall have a right to be present and observe the drawing.

Section 8. The two (2) candidates receiving the highest number of votes for Alderman shall be declared elected.

Section 9. Notice of this election shall be given in accordance with the provisions of the TEXAS ELECTION CODE and returns of such notice shall be made as provided for in said Code. The City Secretary, in compliance with Section 23.023c of the Texas Local Government Code, shall post notice of said election for at least twenty (20) days preceding the date of the election in at least three (3) public places within the municipal limits. The Mayor shall issue all necessary orders and writs for such election, and returns of such election shall be made to the City Secretary immediately after the closing of the polls.

Section 10. Said election shall be held in accordance with the TEXAS ELECTION CODE and the Federal Voting Rights Act of 1965, as amended.

PASSED, APPROVED, AND ADOPTED the 16 day of February, 2005.

J. Michael Dinges
Mayor

ATTEST:

Kathy Mayfield
City Secretary

John Smart - Mayor Pro-Tem	**Aye**
Bill Archer - Councilman	**Absent**
Owen Bement - Councilman	**Aye**
Colice Watts - Councilman	**Aye**
J.B. Collins, Jr. - Councilman	**Aye**

ORDINANCE NO. 05-922

AN ORDINANCE ESTABLISHING A PROGRAM OF COMPREHENSIVE EMERGENCY MANAGEMENT; ACKNOWLEDGING THE OFFICE OF EMERGENCY MANAGEMENT DIRECTOR; AUTHORIZING THE APPOINTMENT OF AN EMERGENCY MANAGEMENT COORDINATOR; AND PROVIDING FOR THE DUTIES AND RESPONSIBILITIES OF THOSE OFFICES; IDENTIFYING AN OPERATIONAL ORGANIZATION; GRANTING NECESSARY POWERS TO COPE WITH ALL PHASES OF EMERGENCY MANAGEMENT WHICH THREATEN LIFE AND PROPERTY IN THE CITY OF FULSHEAR; AUTHORIZING COOPERATIVE AND MUTUAL AID AGREEMENTS FOR RELIEF WORK BETWEEN THIS AND OTHER CITIES AND COUNTIES AND FOR RELATED PURPOSES TO BE EFFECTIVE MAY 17, 2005.

WHEREAS, the City Council of Fulshear finds that the identification of potential hazards and the prevention or mitigation of their effects must be an on-going concern of the County if the lives and property of the populace are to be protected; and

WHEREAS, the City Council declares that the preparation of a Comprehensive Emergency Management Plan, and the means for it's implementation, for the protection of lives and property in the City of Fulshear from natural or man-caused or threat thereof is immediately essential; and

WHEREAS, the City Council further finds that in times of disasters which may imperil the safety of the inhabitants of the County, or their property, it becomes necessary to effectuate and place into operation the preconceived plans and preparations with a minimum of delay; and

WHEREAS, the City Council finds, therefore, that the preparation, and implementation of such plans are now imperative; be it ordered, adjudged and decreed by the City Council of the City of Fulshear, Texas:

Section 1. ORGANIZATION There exists the office of Emergency Management Director of the City of Fulshear, which shall be held by the Mayor in accordance with state law.

(a) An Emergency Management Coordinator may be appointed by and serve at the pleasure of the Director;

(b) The Director shall be responsible for a program of comprehensive emergency management within the City and for carrying out the duties and responsibilities set forth in this ordinance. He/she may delegate authority for execution of these duties to the coordinator, but ultimate responsibility for such execution shall remain with the Director.

(c) The operational Emergency Management organization of the City of Fulshear shall consist of the officers and employees of the City so designated by the Director in the emergency management plan, as well as organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the emergency management plan.

Section 2. <u>EMERGENCY MANAGEMENT DIRECTOR – POWERS AND DUTIES</u> The duties and responsibilities of the Emergency Management Director shall include the following:

(a) Surveying actual or potential hazards that threaten life and property within the City and identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur.

(b) Supervision of the development and approval of an emergency management plan for the City of Fulshear, and shall recommend for adoption by the City Council all mutual aid arrangements deemed necessary for the implementation of such plan.

(c) Authority to declare a local state of disaster. The declaration may not be continued or renewed for a period in excess of 7 days except by or with the consent of the City Council. Any order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the City Secretary.

(d) Issuance of necessary proclamations, regulations or directives which are necessary for carrying out the purposes of this ordinance. Such proclamations, regulation, or directives shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless circumstances attendant of the disaster prevent or impede, promptly filed with the City Secretary.

(e) Direction and Control of the operations of the City of Fulshear Emergency Management organization as well as the training of emergency management personnel.

(f) Determination of all questions of authority and responsibility that may arise within the emergency management of the City.

(g) Maintenance of the liaison with other municipal, county, district, state, regional or federal emergency management organizations.

(h) Marshaling of all necessary personnel, equipment or supplies from any department of the City to aid in the carrying out of the provisions of the emergency management plan.

(i) Supervision of the drafting and execution of mutual aid agreements in cooperation with the representatives of the state and of other local political subdivision of the state, and the drafting and execution, if deemed desirable, of an agreement with the County in which said City is located in and with other municipalities within the County, for the county-wide coordination of emergency management efforts.

(j) Supervision of, and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving emergency management within the City.

(k) Authorizing of agreements, after approval of the City Attorney, for use of private property for public shelter and other purposes.

(l) Surveying the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as approved for herein.

(m) Other requirements as specified in the Texas Disaster Act, (Chapter 418, Government Code).

Section 3. EMERGENCY MANAGEMENT PLAN A comprehensive Emergency Management Plan shall be developed and maintained in a current state. The plan shall set forth the form of the organization, establish and designate division and functions, assign responsibilities, tasks, duties, and powers, and designate officers and employees to carry out the provisions of this order. As provided by state law, the plan shall follow the standards and criteria established by the Governor's Division of Emergency Management of the State of Texas. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the Governor's Division of Emergency Management. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by the plan and to maintain their portion of the plan in a current state of readiness at al times. The emergency management plan shall be considered supplementary to this ordinance and have the effect of law during the time of a disaster.

Section 4. INTERJURISDICTIONAL PROGRAM The Mayor is hereby authorized to join with the County Judge of Fort Bend County and the Mayors of other cities in said County in the formation of interjurisdictional emergency management program for the Fort Bend County, and shall have the

authority to cooperate in the preparation of an interjurisdictional emergency plan as well as have all powers necessary to participate in a county-wide program of emergency management insofar as said program may affect the City of Fulshear.

Section 5. OVERRIDE At all times when the orders, rules and regulations made and promulgated pursuant to this ordinance shall be in effect, they shall supercede and override all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.

Section 6. LIABILITY This order is an exercise by the City of its governmental functions for the protection of the public peace, health, and safety and neither the City of Fulshear, the agents and representatives of said City, nor any individual, receiver, firm, partnership, corporation, association, or trustee, not any of the agents thereof in good faith carrying out, complying with or attempting to comply with, any order, rule, or regulation promulgated pursuant to the provisions of this ordinance shall be liable for any damage sustained to persons as the result of said activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation, grants to the City of Fulshear a license of privilege, or otherwise permits to the City to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack or natural or man-made disaster shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to any person on or about such real estate or premises under such license, privilege or other permission or for loss of, or damage to, the property of such person.

Section 7. COMMITMENT OF FUNDS No person shall have the right to expend any public funds of the City in carrying out any Emergency Management activity authorized by this ordinance without prior approval of the City Council, nor shall any person have any right to bind the City by contract, agreement, or otherwise without prior and specific approval of the City Council unless during a declared disaster. During a declared disaster, the Mayor may expend and/or commit public funds of the City when deemed prudent and necessary for the protection of health, life, or property.

Section 8. OFFENSES; PENALTIES

(a) It shall be unlawful for any person to willfully obstruct, hinder, or delay any member of the Emergency Management organization in the enforcement of any rule of regulation issued pursuant to this ordinance.

(b) It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia, or any other means of identification as a member of the Emergency Management organization of City of Fulshear, unless authority to do so has been granted to such person by the proper officials.

(c) Convictions for violations of the provisions of this order shall be punishable by fine not to exceed two thousand dollars ($2,000.00).

Section 9. SEVERABILITY If any portion of this ordinance shall, for any reason, be declared invalid, such invalidity shall not affect the remaining provisions thereof.

Section 10. LIMITATIONS This ordinance shall not be construed so as to conflict with any State of Federal statute or with any military or naval order, rule, or regulation.

Section 11. REPEALER All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

J. Michael Dinges, Mayor
City of Fulshear, Texas

ALDERMAN JOHN SMART	AYE
ALDERMAN BILL ARCHER	AYE
ALDERMAN J B COLLINS, JR.	AYE
ALDERMAN COLICE WATTS	AYE
ALDERMAN OWEN BEMENT	ABSENT

ATTEST:

Kathy Mayfield
City Secretary

ORDINANCE . 05-923

AN ORDINANCE CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE GENERAL ELECTION HELD ON MAY 7, 2005, FOR THE PURPOSE OF ELECTING TWO (2) ALDERMEN TO THE CITY COUNCIL OF THE CITY OF FULSHEAR.

* * * * * * * * * * * *

WHEREAS, a general election was held in the City of Fulshear, Texas, on May 7, 2005, for the purpose of electing two (2) Aldermen; and

WHEREAS, said election was duly and legally held in conformity with the election laws of the State of Texas, and the results of said election have been verified and returned by the proper judges and clerks; and

WHEREAS, it appears that a total of 133 votes were cast in such election; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The facts set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The official canvass of the returns of the general election held on May 7, 2005, reflects that the following named persons received the number of votes set opposite their name:

Candidate Name	Votes
J.B. COLLINS, JR.	104
BILL ARCHER	91
ROBERT C. FOX	41

Section 3. In accordance with the official canvass of the returns of the

general election held on May 15, 2004, the following persons are duly elected:

J.B. COLLINS, JR.	- ALDERMAN
BILL ARCHER	- ALDERMAN

PASSED, APPROVED AND ADOPTED this 17th day of May, 2005.

J. Michael Dinges
Mayor

ATTEST:

Kathy Mayfield
City Secretary

ALDERMAN JOHN SMART	AYE
ALDERMAN BILL ARCHER	AYE
ALDERMAN J B COLLINS, JR.	AYE
ALDERMAN COLICE WATTS	AYE
ALDERMAN OWEN BEMENT	ABSENT

ORDINANCE NO. 05-924

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, GRANTING TO TEXAS AND KANSAS CITY CABLE PARTNERS, L.P. D/B/A TIME WARNER CABLE, ITS PERMITTED SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE, AND FRANCHISE FOR THE TERM OF FIFTEEN YEARS TO ERECT, MAINTAIN, AND OPERATE A CABLE SYSTEM IN THE CITY OF FULSHEAR, TEXAS; TO ERECT, MAINTAIN, AND OPERATE ITS CABLE SYSTEM IN, OVER, UNDER, ALONG, AND ACROSS THE PRESENT AND FUTURE PUBLIC STREETS, HIGHWAYS, ALLEYS, BRIDGES, EASEMENTS, AND OTHER PUBLIC WAYS AND PLACES IN THE CITY; PRESCRIBING COMPENSATION FOR THE RIGHTS, PRIVILEGES, AND FRANCHISE CONFERRED HEREUNDER; PRESCRIBING THE CONDITIONS GOVERNING THE OPERATION OF THE BUSINESS INSOFAR AS IT AFFECTS THE USE OF PUBLIC PROPERTY FOR THE PURPOSE OF SUCH BUSINESS; INSTALLATION, UPGRADE AND OPERATION OF SAID SYSTEM AND BUSINESS; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING FOR SEVERABILITY.

* * * * * *

WHEREAS, Texas and Kansas City Cable Partners, L. P., d/b/a Time Warner Cable ("Time Warner") has requested a franchise to allow for the operation of a cable system in the City of Fulshear, Texas (the "City") in accordance with the provisions of the Cable Act; and

WHEREAS, the City Council finds from all the evidence that Time Warner fully meets all the legal, character, financial, and technical qualifications, as well as all other qualifications, necessary to assure the cable service area within the jurisdictional boundaries of the City, both as it is now and as it will be during the duration of this franchise agreement, will receive the best available cable service and that additional construction arrangements proposed by Time Warner are fully adequate and feasible; and

WHEREAS, following proper notice, the City Council of the City held a public hearing, at which time representatives of Time Warner and interested citizens were heard in a full public proceeding affording opportunity for comment by any and all persons desiring to be heard; and

WHEREAS, from information presented at such public hearing, from facts and circumstances developed or discovered through independent study and investigation, the City Council now deems it appropriate and in the best interest of the City and its inhabitants that the franchise be granted to Time Warner; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

ARTICLE I

ENACTMENT

1.01. Recitals. The facts and recitations set forth in the preamble of this Franchise Ordinance are hereby adopted, ratified, and confirmed.

ARTICLE II

DEFINITIONS

2.01. General. The following terms, phrases, words, abbreviations, and their derivations shall have the meanings hereafter set forth. Terms, phrases, words, and abbreviations not defined herein shall be construed in accordance with the ordinances of the City or their customary usage and meaning. When not inconsistent with the context, words used in the singular shall include the plural, words in the plural shall include the singular, and words used or defined in one tense or form shall include other tenses or derivative forms. The headings contained in this Franchise Ordinance are to facilitate reference only, do not form a part of this Franchise Ordinance, and shall not in any way affect the construction or interpretation hereof. The words "shall," "will," and "must" are mandatory, and the word "may" is permissive or directory:

A. Additional Subscriber Services. Any cable services other than Basic Subscriber Service, Expanded Subscriber Service, Digital Subscriber Service, and Pay Television Service provided by Grantee over the Cable System either directly or as a carrier for its parent, subsidiaries, affiliates, or any other person engaged in communications services including, but not limited to, burglar alarm, data or other electronic intelligence transmission, facsimile reproduction, meter reading, home shopping services, and on-screen program guides. Additional Subscriber Services shall not include Cable Modem Service and delivery by the Cable System of any programming on a Public, Educational or Government Access Channel. Any Access Channels, if provided, shall be included in Basic Subscriber Service. Additional Subscriber Services shall not include telecommunications services (two-way switch communications/telephone services).

B. Affiliate. An entity which owns or controls, is owned or controlled by, or is under common ownership with Grantee, and includes Grantee's parent and any subsidiaries of Grantee.

C. Anniversary Date. The date on which this Franchise Ordinance was passed and approved by the City Council of the City of Fulshear.

D. Basic Subscriber Service. The simultaneous delivery by Grantee to television receivers or other suitable type of audio-video communication receivers of that

service regularly offered or provided to all of its Subscribers, which shall include the authorized retransmission of any and all local (Greater Houston-Galveston Metropolitan Area) television broadcast signals and public, educational and governmental access channels.

E. Cable Act. Title VI of the Communications Act of 1934, as amended.

F. Cable Modem Service. A service provided over the Cable System either directly or as a carrier for Grantee's parent, subsidiaries, affiliates, or any other person engaged in communications services enabling Subscribers to access, at high speed, content, information, electronic mail, and other services offered over the Internet, and may also include access to proprietary content, information and other services as part of a package of services offered to Subscribers. Cable Modem Service does not include telecommunications services.

G. Cable Service. The one-way transmission to subscribers of (i) video programming, or other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. Cable Service does not include Cable Modem Service unless otherwise provided under applicable law.

H. Cable System. A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed and constructed to provide Cable Service, which includes video programming, and which is provided to multiple subscribers within the City, but such term does not include:

1. a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;

2. a facility that serves subscribers without using any public right-of-way;

3. a facility of common carrier which is subject, in whole or in part, to the provisions of subchapter II of Chapter 5 of Title 47 of the U.S. Code, except that such facility shall be considered a cable system (other than for purposes of 541 (c) of title 47 of the U.S. Code) to the extent such facility is used in the transmission of video programming directly to subscribers; unless the extent of such use is solely to provide interactive on-demand services;

4. an open video system that complies with Section 573 of Title 47 of the U.S. Code;

5. any facilities of any electric utility used solely for operating its electric utility system; or

6. telecommunications services (two-way switch communications/telephone services).

I. Channels. A band of frequencies capable of carrying both (i) audio-video television signals and (ii) non-video signals, or the equivalent thereof utilizing current technology on a twenty four (24) hour per day basis.

J. City. The City of Fulshear, Texas, a municipal corporation of the State of Texas.

K. City Council. The present governing body of the City or any successor to the legislative powers of the present City Council.

L. Converter. An electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a Subscriber and which, by an appropriate Channel selector, also permits a Subscriber to view all signals delivered at designated dial locations.

M. Digital Cable Service. The Expanded Subscriber Service tier plus the addition of one or more clusters of digital quality cable programming services which are offered for an additional monthly charge, but not purchased on a per-viewing basis.

N. Expanded Subscriber Service. The Basic Subscriber Service tier plus the addition of one or more clusters of cable programming services which may or may not be offered for an additional monthly charge.

O. Federal Communications Commission or FCC. The agency as presently constituted by the United States Congress or any successor agency with jurisdiction over cable matters.

P. Franchise Area. The incorporated area of the City and such additional areas as may be included in the corporate limits of the City during the term of this franchise.

Q. Franchise Year. Any twelve-month period commencing on an Anniversary Date and extending to the day immediately preceding the next subsequent Anniversary Date.

R. Government Access Channel. The Channel(s) on the System which are reserved for non-commercial government uses and used in accordance with the rules and procedures established by the City, or its designee.

S. Grantee. Texas and Kansas City Cable Partners, L.P. d/b/a Time Warner Cable or any person who succeeds Texas and Kansas City Cable Partners, L.P. in accordance with the provisions of this franchise.

T. Gross Revenues. All revenues collected by the Grantee, or any affiliate of Grantee, from or as a result of the operation of its Cable System in the City to provide Cable Services including, but not limited to, Basic Subscriber Service revenues, Expanded Subscriber Services revenues, Additional Subscriber Services revenues, Digital Cable Services revenues, Pay Television revenues, advertising revenues, revenues resulting from connection or reconnection fees of any kind, revenues resulting from the lease, rental, use, repair, or servicing of equipment of any kind, revenues resulting from the sale, lease, or rental of channels or channel capacity, revenues resulting from late or delinquent charge fees and all other revenues of any kind received by the Grantee from the operation of the Cable System. Gross Revenues shall not include:

1. Any taxes which are imposed on any Subscriber or user of the Cable System by any governmental unit and collected by the Grantee for such governmental unit;
2. Revenues resulting from commissions on sales from shopping channels; and
3. Franchise fees paid to the City pursuant to this Franchise Ordinance.

U. Pay Television. The delivery over the Cable System of programming to Subscribers for a fee or charge over and above the charge for Basic Subscriber Service or Expanded Subscriber Service on a per-program or per-channel basis.

V. Person. Any person, firm, partnership, association, corporation, company, or organization of any kind.

W. Public Utility Commission of Texas. The agency as presently constituted by the laws of the State of Texas or any successor agency.

X. "State-of-the-Art". State-of-the-Art shall mean Cable System equipment that is readily available with reasonable delivery schedules from two (2) or more sources of supply with the capability to perform the intended functions demonstrated in the field under actual operating conditions by several unrelated operators for purposes other than test or experimentation and implementation by the Grantee is technically and economically feasible to both the Grantee and subscribers.

Y. Street. The surface and the space above and below any public street, road, highway, alley, bridge, sidewalk, or other public place or way now or hereafter held by the City for the purpose of public travel or purposes compatible with the installation of utility lines and shall include other easements or rights-of-way now held or hereafter held by City which shall, within their proper use and meaning, entitle City and Grantee to the use thereof for the purposes of installing or transmitting Cable System transmissions over poles, wires, cables, conductors, conduits, manholes, amplifiers, appurtenances, attachments, and other structures, equipment and facilities as may be ordinarily necessary and pertinent to a Cable System.

Z. Subscriber. Any person who lawfully receives any Cable Service delivered by the Cable System.

ARTICLE III

GRANT OF AUTHORITY

3.01. Use of Public Streets. There is hereby granted to Grantee the right, privilege, and franchise to have, acquire, construct, reconstruct, maintain, use, and operate in the City a Cable System to provide Cable Service and to have, acquire, construct, reconstruct, maintain, use, and operate in, over, under, and along the present and future streets of the City as well as other easements and rights-of-way held by the City, all necessary or desirable poles, towers, anchors, wires, cables, electronic conductors, underground conduits, manholes, and other structures and appurtenances necessary for the construction, maintenance, and operation of a Cable System in the City.

3.02. Use, Rental, or Lease of Utility Poles and Facilities. There is hereby granted to Grantee the authority to contract with the City or with the holder or owner of any utility franchise in the City for the use, rental, or lease of its or their poles, underground conduits, and other structures and facilities for the purpose of extending, carrying, or laying Grantee's wires, cables, electronic conductors, and other facilities and appurtenances necessary or desirable in conjunction with the operation of its Cable System. The City agrees that any public utility owning or controlling such poles or underground conduits may, without amendment to its franchise, allow, and is encouraged to allow, Grantee to make such use thereof pursuant to any agreement reached between such utility and Grantee.

ARTICLE IV

TERM, EVALUATION, AND RENEWAL

4.01. Term of Franchise. Upon the filing with the City by Grantee of the written acceptance required herein, this franchise shall be in full force and effect for a term and period of fifteen (15) years commencing thirty (30) days after final passage and approval of this Franchise Ordinance.

4.02. Performance Evaluation. In order to assure that the Grantee is complying with the terms of this franchise and with the character, quality, and efficiency of service to be rendered, given, performed, and furnished under this franchise, a performance evaluation hearing may be held during the term of this franchise. Unless specifically waived by the City Council, attendance of Grantee's duly authorized representative at these hearings shall be mandatory.

1. At least thirty (30) days prior to any public hearing on this franchise, the City Secretary shall notify the Grantee of the date, time and place of the

hearing. At the hearing, the Grantee shall be entitled to all the rights of due process consistent with the City proceedings, including but not limited to, the right to present evidence and the right to be represented by counsel.

2. The subject of the hearings shall include, but not be limited to, the Grantee's performance under the franchise, the development of new services, the utilization of new technologies, a review of any federal or state rules or regulations relevant to the franchise, and a comparison of rates and performance to any benchmarks or standards set by federal, state, or local agencies having jurisdiction.

3. Upon request of the City and within sixty (60) days from receipt of such request, the Grantee shall file a report with the City Secretary, in reasonable detail, specifically addressing, at a minimum the following areas or any other topic deemed material or relevant by the City occasioned by advances in technology:

(i) compliance with the requirements regarding technical performance and testing, as provided in 12.02 of this franchise, including a review of the most recent proof of performance testing and signal leakage testing (which includes the City service area);

(ii) compliance with any plans or specifications submitted by the Grantee in connection with the System Replacement and Upgrade and sequence and system characteristics, as provided in Article X of this franchise;

(iii) a summary of service interruptions during the preceding calendar year (other than scheduled interruptions or interruptions of a duration less than two (2) hours for all Subscribers or any interruptions which affected less than ten percent (10%) of all Subscribers);

(iv) compliance with the customer service standards, as provided in 12.03 and Exhibit A of this franchise;

(v) a written statement as to whether there has been any substantial change from information or plans previously provided to the City; and

(vi) compliance with all requirements related to support for Public, Educational, and Government Access Channels, as provided in Article XIV and Exhibit C of this franchise.

4. All reports to be prepared under this subsection and submitted by Grantee shall be based on information for at least a twelve (12)

month period ending with the most current quarter available, but not on information of twelve (12) months data that ends more than six (6) months before the time of the performance evaluation hearing; provided, however, if a report is related to compliance with customer service standards and was prepared pursuant to Exhibit "A," the information contained in the report shall be based on the time-frame required under Exhibit "A."

5. The Grantee shall make available to City Council, or its designee, any records, documents, or other information as may be reasonable relevant to the City Council's review.

6. An audio recording of any public hearing regarding this franchise shall be made by the City and all records, minutes, and recordings thereof shall be retained by the City Secretary in accordance with the City's record retention policy and be available for inspection during normal business hours.

7. The City Council shall hear any interested persons during such hearings and shall determine whether Grantee did reasonably comply with the terms and conditions imposed by this franchise.

4.03. Renewal. Grantee and City agree that franchise renewal proceedings shall be governed by the Cable Act or other law applicable at the time of renewal.

ARTICLE V

RECOUPMENT OF COSTS BY CITY

5.01. Publication Costs. Any and all costs of publication which may be required by law or action of City Council shall be borne by Grantee.

ARTICLE VI

COMPLIANCE WITH CITY, STATE, AND FEDERAL LAWS

6.01. Compliance with Applicable Laws. The work done and activity in connection with the construction, reconstruction, maintenance, operation and repair of Grantee's Cable System shall be subject to and governed by all present and future laws, rules, and regulations of the City, state and federal governments and any administrative agencies thereof. If any state or federal law, rule, or regulation shall require or permit the Grantee to perform in conflict with this franchise or prohibit the performance of any service required by provisions of this franchise, then immediately following knowledge thereof, the Grantee shall notify the City Council or its designee in writing of the point of conflict believed to exist between such state or federal law, rule, or regulation and this franchise. If the City Council determines that a material provision of this franchise does in

fact conflict with such state or federal law, rule, or regulation, the parties shall enter into good faith negotiations to modify any provision hereof to such reasonable extent as may be necessary to carry out the full intent and purpose of this franchise.

6.02. Subject to Police Power of the City. The construction, maintenance, and operation of Grantee's Cable System and all property of Grantee subject to the provisions of this franchise shall be subject to all lawful police powers, rules, and regulations of the City. The City shall have the power at any time to order and require Grantee to remove or abate any pole, line, tower, wire, cable, guy, conduit, electric conductor, or any other structure or facility that is dangerous to life or property. In the event Grantee, after written notice, fails or refuses to act, the City shall have the power to remove or abate the same at the expense of Grantee, all without compensation or liability for damages to Grantee.

6.03. Modifications by FCC; Jurisdiction of FCC. It is specifically agreed by the City and Grantee that any modification of the provisions of this franchise resulting from amendment of the rules and regulations of the FCC or other applicable state or federal governmental agency shall be automatically incorporated into this franchise unless:

1. Such modification provides for leniency in the provisions included in this franchise and such leniency is not required by law; or

2. The City Council specifically rejects such incorporation of said modifications within one (1) year of the adoption of such modification and such rejection is not in conflict with any City, state or federal laws, rules, or regulations.

ARTICLE VII

CONDITIONS OF STREET OCCUPANCY

7.01. Use. All structures, wires, cables, equipment, and facilities erected or maintained by Grantee within the City shall be located as to cause minimum interference with the proper and intended use of the streets and with the rights or reasonable convenience of the owners or occupants of property which adjoins any of such streets. The location of all poles, towers, anchors, wires, cables, electronic conductors, conduits, manholes and other structures and appurtenances in, over, under, along, and across the present and future public streets, highways, alleys, bridges, easements, and other public ways and places in the City shall be fixed under the supervision of the City or an authorized agent appointed by the City . When the Grantee shall make or cause to be made excavations or shall place obstructions in any street, alley, or other public place, the public shall be protected by barriers and lights placed, erected, and maintained by the Grantee in accordance with any existing or future City, state, or federal requirements.

7.02. Restoration. The surface of any street disturbed by Grantee in laying, constructing, maintaining, operating, using, extending, removing, replacing, or repairing its Cable System shall be restored by Grantee immediately after the completion of the work,

at its cost and expense, to as good a condition as before the commencement of the work and shall be maintained by Grantee to the satisfaction of the City for one (1) year from the date of completion of such restoration work. No street shall be encumbered by construction, maintenance, removal, restoration, or repair work by Grantee for a longer period than shall be necessary to execute such work. If there is an unreasonable delay by Grantee in restoring and maintaining streets after such excavations or repairs have been made, City shall have the right, without further notice to Grantee to restore or repair the same and to require Grantee to pay to the City the reasonable cost of such restoration or repair, all without compensation or liability for damages to the Grantee. In the event City determines that Grantee's use of any of City's streets and rights-of-way as set forth in this franchise pose an immediate danger to the health, safety or general welfare of the public, City shall have the right to restore or repair same and shall require Grantee to pay to the City the reasonable costs incurred regarding same, all without compensation or liability for damages to the Grantee. Grantee shall provide the City written notice of any proposed disturbance to streets or street rights-of-way prior to the commencement thereof, and to the City and to the owner or occupant of the underlying property prior to the disturbance of any easement. Such notice shall be given by Grantee as far in advance as is reasonably practical. In the event disturbance of any easement is necessary to make emergency repairs to restore service to customers, Grantee shall take reasonable efforts to notify the owner or occupant of the underlying property and the City as soon as practical.

7.03. Relocation. Whenever by reason of the construction, repair, maintenance, relocation, widening, raising, or lowering of the grade of any street by the City or by the location or manner of construction, reconstruction, maintenance, or repair of any public property, structure, or facility by the City it shall be deemed necessary by the City for Grantee to move, relocate, change, alter, or modify any of its facilities or structures, such change, relocation, alteration, or modification shall be promptly made by Grantee, at its cost and expense, when directed in writing to do so by the City, without claim for or right of reimbursement of cost or damages against the City. In the event Grantee, after such notice, fails or refuses to commence, pursue, or complete such relocation work within a reasonable time, the City shall have the authority, but not the obligation, to remove or abate such structures or facilities and to require Grantee to pay to the City the reasonable cost of such removal or abatement, all without compensation or liability for damages to Grantee.

7.04. Temporary Removal of Wire for Building Moving. Upon written request of any person holding a building moving permit issued by the City, Grantee shall remove, raise, or lower its wires and cables temporarily to permit the moving of houses, buildings, or other bulky structures. The reasonable expense of such temporary removal, raising, or lowering shall be paid by the benefited person, and Grantee may require such payment in advance, Grantee being without obligation to remove, raise, or lower its wires and cables until such payment shall have been made. Grantee shall be given not less than seventy-two (72) hours advance written notice to arrange for such temporary wire and cable adjustments.

7.05. Tree Trimming. From time to time, the City Council may pass ordinances regulating the trimming or removal of trees on or along City property, and Grantee shall comply with these ordinances.

7.06. Placement of Fixtures. Grantee shall not place poles, towers, or similar fixtures where the same will interfere with any gas, electric, or telephone fixtures, water hydrant or main, drainage facility, or sanitary sewer, and all such poles, towers, and similar facilities shall be placed as directed by the City and in such manner as not to interfere with the usual travel or use or visibility of the streets.

7.07. Approval of Plans and Specifications. Grantee shall provide complete plans and specifications for all construction within public rights-of-way to the City for its review at least thirty (30) days prior to the start of construction. Approval of plans and specifications shall not be unreasonably delayed or denied. In the event of rejection, Grantee shall submit revised plans and specifications for approval. This provision shall apply to each construction sequence if the construction is accomplished in phases.

7.08. Underground Installation. In those portions of the City having telephone lines and electric utility lines underground, whether required by ordinance or not, any and all of Grantee's lines, cables, and wires shall also be underground. It shall be the policy of the City that existing poles for electric and communications purposes be utilized whenever possible and that underground installation, even when not required, is preferable to the placing of additional poles.

7.09. Facilities Location. From time to time, the City or its representatives may request identification of the specific location of certain Grantee facilities. The Grantee agrees to respond in writing to such request within ten (10) days of the receipt of the request, unless the request is for the specific location of Grantee's underground facilities, in which event, Grantee agrees to perform on-site cable locates within seventy-two (72) hours of the receipt of a request for same. If in the event that Grantee fails to provide the necessary information or the information provided is inaccurate, and damage is caused to Grantee facilities as a direct result of withholding said information, the Grantee shall hold the City harmless from all liability, damage, cost or expense resulting from any City action in this regard.

Grantee shall keep the City informed as to matters in connection with or affecting the construction, reconstruction, maintenance, operations, and repair of the facilities of the Grantee within the public rights-of-way including, but not necessarily limited to, the identification and location of the Grantee's facilities within the rights-of-way and to periodical updates of such information as changes regarding same occur.

Upon request by the City, the Grantee shall furnish the City information relevant to such matters, which is prepared, maintained, and available in the ordinary course of business.

ARTICLE VIII

INDEMNIFICATION AND LIABILITY

8.01. Grantee's Obligation. Grantee shall pay, and by the acceptance of this franchise specifically agrees that it will pay, the following:

A. Damages and Penalties. All damages or penalties which the City, its officers, agents, employees, or contractors may legally be required to pay as a result of damages arising out of the installation, maintenance, or operation of Grantee's Cable System, whether or not any act or omission complained of is authorized, allowed, or prohibited by this franchise.

B. Expenses. If any action or proceeding is brought against the City or any of its officers, agents, employees, or contractors with respect to which payment may be sought for claims for damages or penalties described in this Article, the Grantee, upon written notice from the City, shall assume the investigation and defense thereof, including the employment of counsel and the payment of all expenses including the reasonable value of any services rendered by any officers, agents or employees of the City. If, after proper notice is given by the City to Grantee, Grantee should fail or refuse to defend the City, its officers, agents, employees, or contractors against any and all claims for damages or penalties described in this Article, the City may assume such defense; and Grantee shall pay, and by the acceptance of this franchise specifically agrees that it will pay, all reasonable expenses incurred by the City in providing such defense. These expenses shall include out-of-pocket expenses such as, but not limited to, reasonable attorneys fees, witness fees, and court costs, and the reasonable value of any services rendered by any officers or employees of the City and others retained by the City in its behalf which are reasonably necessary for the preparation of the City's defense. Grantee shall also pay for any damages resulting from its negligence in performing any acts pursuant to this franchise.

C. Separate Counsel. The City shall have the right to employ separate counsel in any action or proceeding and to participate in the investigation and defense thereof, and the Grantee shall pay the reasonable fees and expenses of such separate counsel if representation of both the Grantee and the City by the same attorney would be inconsistent with accepted canons of professional ethics.

D. Indemnification. By its acceptance of this franchise, the Grantee specifically agrees that Grantee shall indemnify, defend and hold the City, its officers, agents, employees, and contractors harmless from all liability, damage, cost, or expense arising from claims for injury to persons, damage to property, or penalties occasioned by reason of any conduct undertaken by reason of this franchise or which may arise out of the granting of this franchise. The City shall not and does not by reason of this granting of this franchise assume any liability of Grantee whatsoever for injury to persons, damage to property, or penalties of any kind whatsoever.

ARTICLE IX

INSURANCE REQUIREMENTS

9.01. Minimum Coverage. Within thirty (30) days after the effective date of this franchise, Grantee shall file with the City Secretary and shall maintain on file throughout the term of this franchise a certificate of insurance evidencing a liability insurance policy issued by a company duly authorized to do business in the State of Texas insuring City and Grantee with respect to the installation, maintenance, and operation of Grantee's Cable System in the following minimum amounts:

A. One Person: One million Dollars ($1,000,000) for bodily injury or death to any one person.

B. One Accident: One million Dollars ($1,000,000) for bodily injury or death resulting from any one accident.

C. Property Damage: One million Dollars ($1,000,000) for property damage resulting from any one occurrence.

D. All Other Types of Liability: One million Dollars ($1,000,000) for all other types of liability, including contractual liability, per occurrence.

9.02. Contractor's Coverage. Grantee shall either require its contractors to maintain the same insurance coverage and limits specified herein or such coverage on Grantee's contractors shall be provided by Grantee.

9.03. Notice of Cancellation or Reduction. Such policy of liability insurance shall contain the provision that written notice of expiration, cancellation, or reduction in coverage of the policy shall be delivered to the City Secretary and to Grantee at least thirty (30) days in advance of the effective date thereof.

9.04. Term. Such liability insurance shall be kept in full force and effect by Grantee during the existence of this franchise and thereafter until after the removal of all poles, wires, cables, underground conduits, manholes, and other conductors and fixtures incident to the maintenance and operation of Grantee's Cable System, should such removal be required by City Council or undertaken by Grantee.

9.05. Workers' Compensation. The Grantee shall maintain throughout the term of this franchise workers' compensation insurance in the amount required by all applicable federal and state laws.

9.06. Increased Coverage. The City Council reserves the right to require Grantee to increase the minimum amounts of insurance coverage to such amounts as are deemed by City Council to be reasonably necessary at such time. Such requirement shall be expressed by resolution or ordinance.

ARTICLE X

CONSTRUCTION, REPLACEMENT AND UPGRADE OF SYSTEM

10.01. Construction. Grantee shall commence and complete the construction of a Cable System within the City capable of serving the inhabitants of the City prior to the expiration of eight (8) weeks from the date this Franchise Ordinance is accepted by Grantee. Such Cable System shall be at a minimum a 750 MGHZ two-way fiber optic system equal to or better than the system serving the Greater Houston Metropolitan Area.

10.02. Plan for Replacement and Upgrade of System. Grantee agrees that, if during the term of this franchise Grantee should replace and upgrade other Cable Systems owned or operated by Grantee or its successors in the Greater Houston Metropolitan Area, Grantee shall submit to the City a Plan for the Replacement and Upgrade of its Cable System within the City to make available to the City and Subscribers therein equipment and services that are equal to or better than those made available by Grantee to subscribers of other Cable Systems owned or operated by Grantee or its successors in the Greater Houston Metropolitan Area. The Replacement and Upgrade Plan shall include the method Grantee will employ in effecting such replacement or upgrade in each area of the City to ensure no or minimal interruption of service. All construction and technical specifications included in the Plan submitted by Grantee shall be in conformity with the provisions of this Franchise Ordinance. Grantee shall commence and complete construction of a replacement and upgrade in the City within a reasonable period of time after Grantee has commenced a replacement and upgrade of its Cable System in the Greater Houston Metropolitan Area.

10.03. Compliance. Failure of Grantee to timely commence and pursue any of the foregoing requirements or to abide by or timely complete any such requirement shall be deemed a violation of a material provision of this Franchise Ordinance.

ARTICLE XI

PERFORMANCE BOND

11.01. Amount. No more than (30) days following the effective date of this franchise, the Grantee shall furnish and file with the City a performance bond. The bond shall run to the City in the penal sum of One Hundred Thousand Dollars ($100,000). The bond shall be conditioned upon the faithful performance of the Grantee of all terms and conditions of the franchise.

11.02. Reservation of Rights. The rights reserved by the City with respect to the bond are in addition to all other rights the City may have under the franchise or any other law.

11.03. Endorsement. The bond shall contain the following endorsement:

"It is hereby understood and agreed that this bond may not be canceled without the consent of the City. The City will be given thirty (30) days written notice by certified mail, return receipt requested, of intent to cancel or not to renew."

ARTICLE XII

OPERATIONAL STANDARDS

12.01. Compliance with FCC Rules. Grantee shall comply with present and future rules and regulations of the FCC including but not limited to technical standards, testing requirements, consumer protection standards and consumer electronics compatibility regulations and all other present and future rules and regulations of the FCC in connection with and relating to the operation of Grantee's Cable System.

12.02. Technical Performance. Throughout the term of this Franchise Ordinance, the Grantee shall, at a minimum, operate and maintain the Cable System in accordance with all applicable technical performance standards, regulations, and guidelines of the FCC. Grantee shall periodically test the technical performance of the system in accordance with all regulations and guidelines of the FCC. Upon request, Grantee shall provide the City with a written report of the results of any system performance tests required by the FCC and, upon written request by the City, any other proof of performance tests conducted by Grantee or by any agent or contractor of Grantee. Grantee shall pay the costs incurred by the City for any technical assistance deemed necessary by the City for obtaining independent verification of compliance with the technical standards required hereby if such testing demonstrates that Grantee has failed to substantially comply with a material requirement hereof.

12.03. Customer Service. The Grantee shall provide good customer service in accordance with all regulations and guidelines of the FCC and the City's customer service standards set forth in Exhibit A to this Franchise Ordinance, and any future requirements promulgated by the FCC, provided that such future requirements do not establish leniency with regard to those customer service standards identified in Exhibit A.

12.04. Interference with Reception. Grantee shall maintain and operate its Cable System in such a manner that it will not interfere with reception of television sets not connected to or served by such System, or other electronic devices, in accordance with any regulations promulgated by the FCC as amended from time to time related to cumulative leakage interference.

12.05. State-of-the-Art. Grantee shall undertake all construction and installation necessary to keep current with the latest developments in the state-of-the-art of Cable, as defined in this Franchise Ordinance whether with respect to increasing Channel capacity, developing and offering to Subscribers new services, instituting more extensive two-way

service, or such other industry developments as may become available during the term of this franchise.

12.06. No Obscenity. Grantee shall comply in all regards with all federal, state and local laws regarding obscenity and shall not broadcast or transmit any picture, signal or sound or provide any service which is obscene or otherwise unprotected by the Constitution of the United States of America.

12.07. Quality of Service. Throughout the term of this franchise, the Grantee shall maintain the quality of service and meet operational standards in the maintenance and operation of its Cable System as are required herein. Should the City find that the Grantee has failed to maintain such quality of service or operational standards, the City shall notify the Grantee in writing following the procedures of Section 25.02 of this franchise.

12.08. Converters - Parental Guidance Control. In order to restrict the viewing of programming which is obscene or indecent, upon the request of a Subscriber, Grantee shall provide a device by which the Subscriber can prohibit viewing of a particular Cable Service.

12.09. Complaints. All complaints received by the City, whether in writing or through verbal communication, relative to Grantee's Cable System or the method of its operation shall be forwarded by the City to Grantee for handling. Where there is a pattern to complaints made, or where there exists other evidence which in the reasonable judgment of the City casts doubt on the reliability or quality of Grantee's Cable Services, the City shall have the right and authority with respect to the specific complaint or complaints received to require Grantee, at its expense, to test, analyze, and report on the performance of its Cable System. Grantee shall fully cooperate with the City in performing such tests and analysis and deliver the same to the City within thirty (30) days after such request is delivered by the City to Grantee. Such report shall include the following information:

A. Nature of Complaint. The nature of the complaint or problem which precipitated the special test or tests.

B. What Was Tested. What System component was tested.

C. Equipment Use. The equipment used and the procedures followed in making such tests.

D. Resolution of Problem. The method, if any, by which such complaint or problem was resolved and the date of such resolution.

E. Additional Information. Any other information pertinent to said tests and analysis which may be requested by the City or required under the circumstances.

Grantee shall maintain a complaint log, to be kept at the offices of Grantee, that includes a listing and resolution of all complaints received directly by Grantee and complaints that have been forwarded to Grantee from the City.

12.10. Supervision of Tests. The City may require that the tests performed pursuant to Section 12.02 be supervised by a registered professional engineer not an officer or employee of Grantee. In such an event, the engineer shall sign all records of special tests and timely forward to the City such records with his report interpreting the results of such tests and setting forth his recommendations regarding remedial action, if any, which has or should be taken to correct the problem. The City's rights under this Section shall be limited to requiring tests, analysis, and reports covering specific subjects, characteristics, or problems based on such complaints or evidence of such a nature as to constitute reasonable grounds for the City to believe that tests are required to be performed in order to protect the public from substandard cable television service. The City's request for such testing shall be in writing and shall provide Grantee with the grounds or basis for such request. If the test results indicate that Grantee's Cable System is in compliance with applicable rules, regulations, or standards contained herein or promulgated by applicable governmental agencies, then the costs for such testing shall be borne by the City, otherwise the costs therefor shall be borne by Grantee.

ARTICLE XIII

SIGNALS TO BE CARRIED

13.01. Required Programming Categories. Grantee's Cable System shall carry at a minimum, a broad spectrum of programming comparable to other areas of the country and this spectrum of programming will include the programming offered to other communities in the Greater Houston Metropolitan Area served by Grantee's Cable System.

13.02. Service For the Hearing Impaired. Grantee shall take any and all reasonable steps necessary to comply with any FCC or other federal or state requirements regarding altering or adapting programming for the hearing impaired. Grantee shall not take any action to remove or alter closed captioning provided for the hearing impaired as a part of any programming. Grantee shall deliver intact such closed captioning in the manner in which it arrives at the headend or from another origination source to the Cable System.

13.03. Interconnection. Grantee's Cable System shall have the capability to interconnect with any other contiguous Cable Systems operated within the City for the purposes of providing Public, Educational or Governmental Access programming only. The cable operator requesting the interconnection shall bear all costs associated with said interconnection.

ARTICLE XIV

PUBLIC, EDUCATIONAL AND GOVERNMENT ACCESS

14.01. Initial Channel. The Grantee shall dedicate for the exclusive use by the City one (1) Channel for the carriage of Public, Educational and Government access programming within ninety (90) days of the date upon which there are 4,000 subscribers receiving any Cable Service(s) through the Cable System. Grantee shall provide physical access and reasonable space for City-owned head-end equipment to input programming at Grantee's head-end. This access Channel shall be made available by Grantee to all subscribers residing in the City. The City, or its designee, shall have the right at its discretion to allocate and reallocate the channel amongst Public, Educational and Government Programming. The City shall have sole responsibility for the programming, production and scheduling on the access channel. This channel shall be used for non-commercial purposes only.

14.02. Rules. The City or its designee shall establish rules for the use and administration of the Channel(s) required under this Section, which rules shall, at a minimum, include the standards set forth in Exhibit C.

14.03. Assistance. The Grantee shall, upon request by the City, assist with the identification of sellers of required equipment for use in the development of the appropriate playback function related to the channel noted in 14.01 above.

ARTICLE XV

EMERGENCY USE OF THE CABLE SYSTEM

15.01. Emergency or Disaster. Grantee shall comply with all FCC regulations with regard to its Emergency Alert System.

ARTICLE XVI

EMPLOYMENT REQUIREMENTS

16.01. Equal Opportunity in Employment. Grantee shall afford equal opportunity in employment to all qualified persons. No person shall be discriminated against in employment because of race, color, religion, national origin, or sex.

ARTICLE XVII

PAYMENT TO CITY

17.01. Amount and Time. As compensation for the right, privilege, and franchise herein conferred, Grantee shall pay to City each year during the term of this franchise a sum equal to five percent (5%) of the Grantee's Gross Revenues for such year. Such

payments shall be made quarterly within forty-five (45) days of the end of each March, June, September and December. The payment shall be accompanied by Grantee's revenue report as set forth in Section 18.04 below.

17.02. Reservation of Rights. Notwithstanding any provision of this Franchise Ordinance to the contrary, in the event a final ruling from a court of competent jurisdiction, federal or state legislation, or any order, ruling or law promulgated by an agency having jurisdiction determines that Cable Modem Service is a Cable Service, then this Franchise Ordinance may be automatically amended, without further formal action by the parties, at the option of the City upon notice to Grantee, to include Cable Modem Service in the definition of Cable Service and to include the revenues derived from the provision of Cable Modem Service in the definition of Gross Revenues, and in any and all other respects necessary to allow the City to regulate and assess and collect a fee on Cable Modem Service in the manner and to the maximum extent permitted. In the event a final ruling from a court of competent jurisdiction, federal or state legislation, or any order, ruling or law promulgated by an agency having jurisdiction determines that Cable Modem Service is other than a Cable Service and authorizes the City to regulate and to assess and collect a fee from Grantee for the right, the privilege, and the franchise to use the City's rights-of-way to provide Cable Modem Service over the Cable System, the City reserves the right to exercise such authority in the manner and to the maximum extent permitted. Grantee acknowledges and understands that, absent a ruling or law finding Cable Modem Service to be a Cable Service, the grant of authority under this Franchise Ordinance is only to provide Cable Service over the Cable System.

17.03. Right of Inspection of Records. The City shall have the right to inspect Grantee's records showing the Gross Revenues from which payments to the City are computed and to audit and re-compute any and all amounts paid under this franchise. Any audit conducted under this section shall be limited to the then current year and the eight (8) years immediately preceding the year in which the audit is conducted. No acceptance of payment shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable under this franchise or for the performance of any other obligation hereunder.

17.04. Other Payments to City. The franchise fee payable hereunder shall be exclusive of and in addition to all ad valorem taxes, special assessments for municipal improvements, and other lawful obligations of Grantee to City.

17.05. Late Payment Penalty. Grantee shall pay a late penalty of 12% per annum, compounded daily, on franchise fee payments, or portions thereof, that are paid subsequent to the payment dates specified in 17.01 or the highest nonusurious percentage rate allowed by law.

ARTICLE XVIII

RECORDS AND REPORTS

18.01. Principal Office of Grantee. Grantee shall maintain a principal office in or within the Greater Houston Metropolitan Area as long as it continues to operate its Cable System within the City or any portion thereof and hereby designates such office as the place to where all notices, directions, orders, and requests may be mailed, served, or delivered under this franchise. The City Secretary shall be promptly notified in writing of the location and address of such office or any change thereof.

18.02. Books of Account. Grantee shall keep complete and accurate books of accounts and records of its business and operations under and in connection with this franchise. Grantee may destroy those books of accounts and records related to this franchise that are more than eight (8) years old at the time of destruction and only if such destruction is in accordance with duly adopted official document retention policies; otherwise, all books of accounts and records related to this franchise shall be maintained at Grantee's principal office for the term of this franchise and for three (3) years following the termination of this franchise.

18.03. Access by City. The City, through its duly designated officers, agents, or representatives, shall have access to all books of accounts and records of Grantee for ascertaining the correctness of any and all reports relating to the enforcement of and compliance with this franchise and may examine its officers and employees under oath with respect thereto. Where necessary to the enforcement and administration of this franchise, access shall be given by Grantee to such officers, agents, or representatives of the City at all reasonable times not only to Grantee's records of Gross Revenues, but also to all of Grantee's plans, contracts, engineering, planning, financial, statistical, customer, and Subscriber services records relating to the properties and operation of its Cable System and to all other records and reports required to be kept or which are kept by Grantee in connection with the operation of its Cable System in the City, provided Grantee is not prohibited by federal law from disclosing such information. Notwithstanding any other provision contained herein to the contrary, the City agrees that any information disclosed by Grantee which is reasonably deemed by Grantee to be proprietary or confidential shall be treated by the City as confidential and the City agrees to disclose such information only to officers, employees, representatives, or agents of the City that "need to know" in order to enforce the provisions of this franchise. This covenant of confidentiality shall be subject, however, to applicable provisions of this franchise and the Texas Public Information Act.

18.04 Revenue and Financial Reporting Requirements. A revenue report shall be filed by Grantee with the City within forty-five (45) days following the end of each March, June, September and December during which this franchise is in effect. Such report shall include the number of Subscribers as of the last day of the preceding calendar quarter, the Gross Revenue, Basic Subscriber Services revenue, Expanded Subscriber Services revenue, Additional Subscriber Services revenue, Pay Television Services revenue, and

all other revenue for the preceding calendar quarter and such other information the City may request with respect to the revenues, properties, expenses, operations, and services of Grantee's Cable System as may be reasonably required to establish compliance with the provisions of this franchise ordinance. The report shall be signed by a representative of Grantee. The City shall be entitled to audit the reported revenues at the cost of the City for the then current year and the eight (8) years immediately preceding the year in which the audit is conducted. Provided, however, if any such audit of a revenue report discloses a material error or misrepresentation in the report being audited, Grantee shall reimburse the City for the costs of such audit.

18.05. False Entry. Any false entry in the books of accounts and records of Grantee or false statement in the reports to City or its duly designated officers, agents, or representatives as to a material fact knowingly made by Grantee shall constitute a violation of a material provision of this Franchise Ordinance.

18.06. FCC Filings. Upon written request of the City, Grantee shall file copies of any and all reports and filings made to the FCC by the Grantee which directly relate to the City with the City Secretary.

ARTICLE XIX

GRANTEE'S RULES

19.01. Authority and Obligation. Grantee shall have the authority and obligation to promulgate such rules, regulations, terms, and conditions governing the conduct of its business as shall be reasonably necessary to enable Grantee to exercise its rights and to perform its obligations under this franchise and to assure an uninterrupted service to all Subscribers; provided, however, such rules, regulations, terms, and conditions shall not be in conflict with any of the provisions of this franchise or any ordinance of City , the laws of the State of Texas and the United States of America, and the rules and regulations of the FCC and any other agency having jurisdiction. A copy of Grantee's rules, regulations, terms, and conditions shall be filed with the City Secretary and shall thereafter be maintained current by Grantee.

ARTICLE XX

REGULATION OF RATES

20.01. City Regulation of Grantee's Rates. The City Council shall be empowered to fix, alter, and regulate, by ordinance, the rates for any and all of those services, installations, and equipment, of Grantee subject to regulation by the City, consistent with FCC rules governing rate regulation. In such event the City Council shall first prescribe by ordinance the procedure and standards to be followed and the extent and scope of such rate regulations, all of which matters shall be consistent with due process and shall conform to any and all of those federal and state laws, rules, and regulations then applicable.

20.02. Posting and Filing of Rates. Grantee shall publish schedules of its then current rates and charges for any and all of its Cable Services in the City, shall post the same in its main office, and shall file a copy thereof with the City Secretary of the City, in compliance with any timing requirements prescribed in FCC regulations. In addition, Grantee shall provide, in writing, new rate schedules to the City Secretary and to each Subscriber at least thirty (30) days prior to any changes in any rate, term or condition of any service offered on the System if such change is within the control of the Grantee.

ARTICLE XXI

DISCONTINUANCE OF SERVICE

21.01. Failure to Pay Bill. Grantee may disconnect installations and discontinue Cable Service to a Subscriber upon the Subscriber's failure to pay his bill within thirty (30) days of its rendition; provided, however, Grantee shall give the Subscriber at least eight (8) days written notice, delivered either by mail or served in person, that his service will be discontinued unless all monies due are paid to Grantee before the expiration of such eight (8) day period.

ARTICLE XXII

FREE SERVICE

22.01. Drops. Upon written request from the City, Grantee shall provide one (1) free drop to each public and private school within the City and to any City owned and operated buildings or facilities within the City that are identified in Exhibit B and/or designated by such written request or requests. Grantee shall bear any and all costs pertaining to installation of such drop when the facility is within 300 feet for underground installation or within 500 feet for aerial installation of Grantee's existing system. Any costs associated with providing the free drop in excess of the aforesaid distances shall not be the responsibility of Grantee.

22.02. Internal Wiring. Grantee shall provide the internal wiring of the buildings or facilities specified in the foregoing Section and the City shall reimburse the Grantee for its actual cost of time and materials in providing such internal wiring; or, at the City's election, the City may provide such access or the interconnect cable (internal wiring), provided it complies with FCC regulations and Grantee specifications which shall be available upon request.

22.03. Basic Subscriber Service. Upon written request, Grantee shall provide free Basic Subscriber Service and, if needed, one (1) free converter to one outlet within any and all present or future public or private schools and to all present or future governmental buildings or facilities within the City which have requested service and are connected to Grantee's Cable System.

ARTICLE XXIII

PROHIBITION OF DISCRIMINATORY OR PREFERENTIAL PRACTICES

23.01. Rates, Charges, and Services. In its rates or charges, or in making available the services or facilities of the Cable System or in its rules or regulations, or in any other respect, Grantee shall not make or grant any illegal preference or advantage to any Subscriber or potential Subscriber and shall not subject any such person to any illegal prejudice or disadvantage. This provision shall not be deemed to prohibit promotional campaigns to stimulate subscriptions to the Cable System. Notwithstanding the foregoing, wherever new construction is taking place, service shall be made available on a non-discriminatory basis with respect to each sequence of construction if the construction is accomplished in phases.

ARTICLE XXIV

NON-EXCLUSIVE FRANCHISE

24.01. Franchise Non-Exclusive. The rights, privileges, and franchise granted hereby are not exclusive and nothing herein contained shall be construed to prevent the City from granting any like or similar rights, privileges, and franchise to any other person within the City; provided, however, any such franchise shall not be on terms or conditions more favorable or less burdensome than those contained herein with respect to the following requirements:

Upgrade Construction;
Service areas;
Franchise fees;
Insurance, performance bonds and similar instrument;
Customer service standards; and
Reports and related record keeping.

ARTICLE XXV

MATERIAL BREACH OF FRANCHISE, NOTICE AND LIQUIDATED DAMAGES

25.01. Material Breach of Franchise. In addition to all rights and powers of the City by virtue of this franchise or otherwise, the City reserves as an additional and as a separate and distinct power the right to take any of the actions described in 25.02 in accordance with the procedures specified therein if any of the following events occur or for any of the following reasons:

1. The Grantee, by act or omission, violates any term, condition, or provision of this franchise;

2. The Grantee knowingly or willingly attempts to evade any material provision of this Franchise Ordinance;

3. The occurrence of any event which may reasonably lead to the foreclosure or other similar judicial or nonjudicial sale of all or any material part of the System;

4. Grantee suspends or discontinues its business, makes an assignment for the benefit of creditors, fails to pay its debts due, becomes insolvent (howsoever such insolvency may be evidenced), is adjudicated insolvent, petitions, or applies to any tribunal for, or consents to, the appointment of, or taking possession by, a receiver, custodian, liquidator or trustee or similar official or a similar process is undertaken by any tribunal against all or a material part of the System; or

5. The Grantee attempts to or does practice any fraud or deceit in its conduct or relations under this franchise with the City , Subscribers or potential Subscribers.

25.02. Notice of Default; Opportunity to Cure.

A. Notice of Default. The City Council shall exercise the rights provided in 26.01 (D) hereof in accordance with the procedures set forth below:

1. The City shall notify the Grantee, in writing, of an alleged failure to comply with a material provision of this Franchise Ordinance, which notice shall specify the alleged failure with reasonable particularity. The Grantee shall, within thirty (30) days after receipt of such notice, or within ninety (90) days after the receipt of such notice of an alleged failure to comply with the customer service standards established in Exhibit "A," or such longer period of time as the City may specify in such notice, either cure such alleged failure or, in a written response to the City, either present facts and arguments in refutation or excuse of such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.

2. The City shall determine (i) whether a failure to comply with a material provision has occurred (ii) whether such failure is excusable and (iii) whether such failure has been cured or will be cured by the Grantee. The Grantee shall make available to the City, if requested, any records, documents or other information necessary to make the determination.

3. If the City determines that a failure to comply with a material provision has occurred and that such failure is not excusable and has not been or will not be cured by the Grantee in a manner and in accordance with a schedule reasonably satisfactory to the City, then the City may take any actions provided in 25.02 (B) hereof, provided that if the City Council acts on its own motion it shall follow the procedural steps set forth in 25.02 (A. 1-3) hereof.

B. Method of Revocation. Any revocation and cancellation of this franchise shall be by ordinance adopted by the City Council; provided, however, before any such ordinance is adopted, Grantee must be given at least forty-five (45) days advance written notice, which notice shall set forth the causes and reasons for the proposed termination and cancellation, shall advise Grantee that it will be provided an opportunity to be heard by the City Council regarding such proposed action before any such action is taken, and shall set forth the time, date, and place of the hearing. In no event shall such hearing be held less than forty-five (45) days following such notice to Grantee. At the hearing, Grantee shall be entitled to all rights of due process consistent with City procedures, including, but not limited to, the right to present evidence and the right to be represented by counsel.

C. City Council Action in Event of Breach. In the event that grounds exist which give the City reason to believe that the Grantee failed to comply with a material provision of this Franchise Ordinance, as provided in 25.01 hereof, then, in accordance with the procedures provided in 25.02 (A) hereof, the City Council may, at any time during the term of this Franchise Ordinance, to the extent lawful: (i) seek monetary damages from the Grantee as compensation for such material breach; and/or (ii) in the event that the Grantee does not cure the breach of the franchise ordinance, or the City Council does not elect to seek monetary damages from the Grantee or the Grantee does not agree to pay such damages, then, as an alternative to taking the action referred to above, the City Council may revoke the franchise granted pursuant to this Franchise Ordinance by termination of this Franchise Ordinance.

25.03. Liquidated Damages. In addition to any other remedies provided herein, liquidated damages for violations of this franchise are set forth below. Such sums of money shall be considered and treated not as a penalty, but as liquidated damages due the City by Grantee by reason of inconvenience to the public and because of public works supervision and maintenance and other City administrative time and involvement which resulted in the expenditure of public funds due to Grantee's failure to comply with certain provisions in this franchise. As a result of any acts or omissions by the Grantee pursuant to this franchise, the City may charge to and collect from the Grantee the following liquidated damages:

A. For failure to complete the construction of a Cable System within the City in accordance with 10.01 of this franchise, unless the City approves the delay, the damage shall be One Thousand Dollars ($1,000.00) per day for each day, or part thereof, for as long as such failure occurs or continues.

B. For failure to complete the System Replacement and Upgrade in accordance with this franchise unless the City approves the delay, the damage shall be One Thousand Dollars ($1,000.00) per day for each day, or part thereof, for as long as such failure occurs or continues.

C. For failure to provide data, documents, reports or information which is required hereunder or required to establish compliance herewith, or to participate with the City during a System review and evaluation, the damage shall be One Hundred Dollars ($100.00) per day.

D. For failure of the Grantee to comply with the construction or technical standards required by this franchise ordinance, the damage shall be One Hundred Dollars ($100.00) per day.

E. For failure to comply with all conditions relating to destruction, restoration, and maintenance of City streets or street rights-of-way, or destruction or restoration of easements, or other terms or conditions of the City, the damage shall be One Hundred Dollars ($100.00) per day.

F. For failure to comply with customer service standards required by this franchise ordinance, the damage shall be Five Hundred Dollars ($500.00) per day, per violation.

25.04. Procedure for Imposing Liquidated Damages.

A. Notice. Whenever the City believes that the Grantee has violated one (1) or more terms, conditions or provisions of this franchise, and liquidated damages will be sought, a written notice shall be given to the Grantee informing it of such alleged violation or liability. The written notice shall describe in reasonable detail the specific violation so as to afford the Grantee an opportunity to remedy the violation. The Grantee shall have (i) thirty (30) days subsequent to receipt of the notice in which to correct the violation before the City may impose liquidated damages unless the violation is of such a nature so as to require more than thirty (30) days and the Grantee proceeds diligently within the thirty (30) days to correct the violation or (ii) ninety (90) days subsequent to receipt of the notice in which to correct the violation before the City may impose liquidated damages if the violation is a failure to comply with the customer service standards established in Exhibit "A."

B. Dispute of Violation. The Grantee may, within ten (10) days of receipt of notice, notify the City that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by the Grantee to the City shall specify with particularity the matters disputed by the Grantee. The City Council shall hear the Grantee's dispute at a public hearing called for such purpose. Grantee shall be given not less than ten (10) days advance notice of the hearing. At the hearing, the Grantee shall be entitled to all the rights of due process consistent with the City procedures, including but not limited to, the

right to present evidence and the right to be represented by counsel. After the hearing, Grantee will be provided with a copy of the City Council's action, along with supporting documents.

If after hearing the dispute the claim is upheld by the City Council, the City may impose liquidated damages against the Grantee as provided herein.

C. Reservation of Rights. The rights reserved to the City under this section are in addition to all other rights of the City whether reserved by this franchise or authorized by law, and no action, proceeding or exercise of a right with respect to liquidated damages shall affect any other right the City may have.

ARTICLE XXVI

REVOCATION OF FRANCHISE

26.01. General. In addition to all other rights and powers of City by virtue of this franchise or otherwise, City reserves as an additional and as a separate and distinct power the right to terminate and cancel this franchise and all rights and privileges of Grantee hereunder in any of the following events or for any of the following reasons:

A. Violation of Provisions. Grantee shall by act or omission violate any term, condition, or provision of this franchise and shall fail or refuse to effect compliance within thirty (30) days following written demand by City to do so.

B. Insolvent or Bankrupt. Grantee becomes insolvent or is adjudged bankrupt or all or any part of Grantee's facilities are sold under an instrument to secure a debt and are not redeemed by Grantee within thirty (30) days from the date of such sale; provided, however, this shall not be an event of termination or cancellation in the event of bankruptcy proceeding and the trustee, receiver, or debtor in possession agrees in writing to be bound by the terms of this franchise.

C. Fraud or Deceit. Grantee attempts to or does practice any fraud or deceit in its conduct or relations under this franchise with the City, Subscribers, or potential Subscribers.

D. Method of Termination and Cancellation. Any such termination and cancellation of this franchise shall be by ordinance adopted by City Council; provided, however, before any such ordinance is adopted, Grantee must be given at least sixty (60) days advance written notice, which notice shall set forth the causes and reasons for the proposed termination and cancellation, shall advise Grantee that it will be provided an opportunity to be heard by City Council regarding such proposed action before any such action is taken, and shall set forth the time, date, and place of the hearing. In no event shall such hearing be held less than thirty (30) days following delivery of such notice to Grantee. At the hearing, the Grantee shall be entitled to all rights of due process consistent with the City procedures, including but not limited to the right to present

evidence and the right to be represented by counsel. If the City Council adopts such ordinance to revoke, a copy of said ordinance will be sent to Grantee.

E. Force Majeure. Other than its failure, refusal, or inability to pay its debts and obligations, including, specifically, the payments to the City required by this franchise, Grantee shall not be declared in default or be subject to any sanction under any provision of this francnise in those cases in which performance of such provision is prevented by strikes, acts of God, power outages, or other event reasonably beyond Grantee's ability to control.

ARTICLE XXVII

ASSIGNMENT OF FRANCHISE

27.01. City Approval of Assignment Required. The rights, privileges, and franchise granted hereunder may not be assigned or transferred, in whole or in part, without the prior consent of the City expressed by resolution or ordinance, and then only under such conditions as may be prescribed therein. Such consent shall not be unreasonably withheld. No assignment in law or otherwise shall be effective until the assignee has filed with the City an instrument, duly executed, reciting the fact of such assignment, accepting the terms of this franchise, and agreeing to comply with all of the provisions hereof. A mortgage or other pledge of assets in a bona fide lending transaction shall not be considered an assignment.

27.02. City Approval of Transfer of Control Required. The Grantee shall promptly notify the City of any actual or proposed change in, or transfer of, or disposition or acquisition by any other person of control in the Grantee. As used herein, the word "control" is used to denote more than a fifty (50) percent change in ownership and/or actual working control in whatever manner exercised. Every change, transfer, or acquisition of control of the Grantee shall make the franchise subject to cancellation unless and until the City Council shall have consented thereto by resolution or ordinance. Such consent shall not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer, disposition, or acquisition of control, the City may inquire into the legal, technical and financial qualifications of the prospective controlling party; the Grantee shall assist the City in such inquiry.

ARTICLE XXVIII

FAILURE OF CITY TO ENFORCE FRANCHISE

28.01. No Waiver of Terms. The Grantee shall not be excused from complying with each and all of the terms, conditions, and provisions of this Franchise Ordinance even though the City should upon one or more occasions fail to insist upon, to require, or to seek compliance with any such term, condition, or provision.

ARTICLE XXIX

SERVICE AVAILABILITY

29.01. Service Availability. The Grantee shall provide cable service throughout the entire franchise area pursuant to the provisions of this franchise.

29.02. Annexations. In the event of future annexations by the City, Grantee agrees that it will extend its Cable System into the newly annexed territory and, within six (6) months from the date of final passage of any such annexation ordinance, have its Cable System available to all persons therein desiring to subscribe to Grantee's Cable Services. Notwithstanding the foregoing, Grantee shall have the right, but not the obligation, to extend its Cable System to annexed areas which are either already serviced by a cable operator or which are not contiguous to the existing franchise area. Grantor is responsible for notifying Grantee when land is annexed into the City.

29.03. Required Extensions of Service; Subscriber Charges. Grantee shall extend its Cable System to any lot or tract of land for which the owner or occupant thereof has requested service. Provided, however, if more than one hundred fifty feet (150') of distance lies between the nearest distribution cable and the point of connection of service to the property for which service is requested, and there exists a density of less than one (1) residence per one hundred fifty (150) cable-bearing strand feet of trunk or distribution cable between the nearest distribution cable and the point of connection of service to such property, Grantee may require a capital contribution in aid of construction from the person requesting such service. The calculation of such capital contribution shall be as follows: the first one hundred fifty feet (150') of extension shall be provided free of charge to the requesting party; one-half of the cost of extending the following two hundred feet (200') may be required to be paid by the requesting party; all costs of the extension in excess of three hundred fifty feet (350') may be required to be paid by the requesting party. Any applicable costs of any such extension shall be calculated using the most direct route for such extension. Extensions made to a developing subdivision shall be complete to all requesting cable service within twelve (12) months from the time construction begins within the subdivision boundaries. The City shall not assume any of the costs related to expansion of said service.

ARTICLE XXX

VALUATION

30.01. City's Right to Purchase Cable System. In the event the Grantee forfeits or City terminates this franchise pursuant to the provision of this Franchise Ordinance, or at the normal expiration of the franchise term and at which time a franchise renewal is denied, the City shall have the right to purchase the Cable System. If City should elect to exercise its right, to purchase such System, payment of a fair valuation, which shall be the then current fair market value, determined on the basis of the Cable System as valued as a going concern but with no value allocated to the franchise itself, shall be

required. Should the parties fail to agree upon the then current fair market value, the same shall be determined in an appropriate proceeding filed in any court having jurisdiction.

ARTICLE XXXI

RECOURSE, UNDERSTANDING, AND CONSTRUCTION

31.01. Requirements and Enforcement. Except as expressly provided herein, Grantee shall have no monetary recourse whatsoever against City for any loss, cost, expense, or damage arising out of the provisions or requirements of this franchise or because of the enforcement thereof by City or because of the lack of City's authority to grant all or any part of this franchise.

31.02. Grantee's Understanding. Grantee represents and warrants that it has read and understands all provisions of this franchise. Grantee expressly acknowledges that in accepting this franchise, it relied solely upon its own investigation and understanding of the power and authority of the City to grant this franchise and that Grantee was not induced to accept this franchise by any understanding, promise, or other statement, verbal or written, by or on behalf of the City or by any third person concerning any term or condition not expressed herein.

31.03. Construction of Franchise. By acceptance of this franchise, Grantee acknowledges that it has carefully read the provisions hereof and is willing to and does accept all of the risks of the meanings of such provisions and agrees that in the event of any ambiguity herein or in the event of any other dispute over the meaning thereof, the same shall be construed strictly against Grantee and in favor of the City.

31.04. Non-waiver of Pass Through. Grantee shall have the right to pass through as an external cost any and all costs associated with meeting the requirements of this franchise to the extent allowed under applicable laws and regulations; provided, however, such costs passed through to Subscribers shall be set out in a separate line item on each regular Subscriber bill. Nothing in this Franchise Ordinance shall be construed as a waiver of such right or requirement to waive such right.

ARTICLE XXXII

ACCEPTANCE OF FRANCHISE

32.01. Method of Acceptance. Within thirty (30) days from the effective date of this franchise, Grantee shall file with the City Secretary a written statement in the following form signed in its name and behalf:

> "To the Honorable Mayor and City Council of the City of Fulshear, Texas: For itself, its successors, and assigns, Texas and Kansas City Cable Partners, L.P. d/b/a Time Warner Cable, a limited partnership duly authorized to do business in

the State of Texas, hereby accepts the attached franchise and agrees to be bound by all of its terms, conditions, and provisions."

TEXAS AND KANSAS CITY CABLE PARTNERS, L.P.

By:_____

Its:_____

"Dated this the _____day of _____, _____."

32.02. Acceptance of Franchise Not a Waiver. Acceptance of this franchise by Grantee shall not constitute a waiver by it of any of its rights; however, Grantee acknowledges that this franchise was freely negotiated and Grantee has read and understands the terms hereof. Grantee further acknowledges and agrees that the terms of this franchise are contractual and not merely recitals and that Grantee shall be bound by the terms and conditions stated herein.

ARTICLE XXXIII

NOTICES

33.01. Unless expressly otherwise agreed between the parties, every notice, direction, order, request, or response to be served upon the City or Grantee shall be in writing and may be served by depositing same in the United States mail, addressed to the party to be notified, postage prepaid and certified with return receipt requested; by delivering the same in person to such party; or by facsimile copy transmission. Notice given by mail shall be effective three days after deposit in the United States mail. Notice given in any other manner shall be effective upon receipt at the address of the addressee.

The notices or responses to the City shall be addressed as follows:

City of Fulshear
Honorable J. Michael Dinges
Mayor
P.O. Box 279
Fulshear, Texas 77441

The notices or responses to Grantee shall be addressed as follows:

Time Warner Cable
8400 W. Tidwell
Houston, Texas 77040
Attention: Vice President of Public Affairs

The City and Grantee may designate such other address or addresses from time to time by giving notice to the other.

ARTICLE XXXIV
EFFECTIVE DATE

34.01. Effective Date of Ordinance. This Ordinance shall take effect the 17 day of MAY, 2005.

ARTICLE XXXV
SEVERABILITY

35.01. Provisions Severable. If any provision, section, subsection, sentence, clause, or phrase of this franchise is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of the remaining portions of this franchise. It is the intent of the City in adopting this franchise that no portion or provision thereof shall become inoperative or fail by reason of any invalidity or unconstitutionality of any other portion or provision, and to this end all provisions of this franchise are declared to be severable.

PASSED AND APPROVED this 17 day of MAY, 2005.

CITY OF FULSHEAR, TEXAS

J. Michael Dinges, Mayor

ATTEST:

Kathy Mayfield
City Secretary

ALDERMAN JOHN SMART	AYE
ALDERMAN BILL ARCHER	AYE
ALDERMAN JB COLLINS, JR.	AYE
ALDERMAN COLICE WATTS	AYE
ALDERMAN OWEN BEMENT	ABSENT

Exhibit "A"

CUSTOMER SERVICE STANDARDS

1.01. Minimum Customer Service Standards. The customer service standards established in this Exhibit A and elsewhere in this Franchise are minimum customer service standards. Grantee shall comply with the customer services standard established in this Article, elsewhere in this Franchise, all regulations and guidelines of the FCC, and any future requirements promulgated by the FCC, provided that such future requirements do not establish leniency with regard to the customer service standards established in this Franchise.

1.02. Definitions.

For the purposes of this Article, the following terms, phrases, words, and their derivations shall have the meanings hereafter set forth.

A. Normal business hours. Those hours during which most similar businesses in the community are open to serve customers. In all cases, normal business hours must include some evening hours at least one night per week and/or some weekend hours.

B. Normal operating conditions. Those service conditions which are within the control of Grantee. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or season demand periods, and maintenance or upgrade of the Cable System.

C. Service Interruption. The loss of picture or sound on one or more cable channels.

1.03. Telephone Responsiveness.

A. Grantee shall maintain toll-free telephone customer service on a twenty-four hour basis, seven (7) days a week. A trained Customer Service Representative (CSR) will be available to respond to requests for service calls on a twenty-four hour, seven (7) days per week basis and to other inquiries and requests during normal business hours.

B. Under normal operating conditions, telephone answer time by a CSR, including wait time, shall not exceed thirty (30) seconds. If calls need to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under normal operating conditions, measured during any ninety (90) consecutive day period.

C. Under normal operating conditions, telephone calls to Grantee shall not exceed a ten percent (10%) abandonment rate (callers that give up on hold, or receive busy signals), measured during any ninety (90) consecutive day period.

D. Under normal operating conditions, callers will receive a busy signal less than three percent (3%) of the time, measured during any ninety (90) consecutive day period.

E. If a historical record of complaints indicates a clear failure to comply with the above telephone answering standards, Grantee shall acquire equipment or perform surveys to measure compliance with the above standards. Upon written request, Grantee shall provide to the City, for the ninety (90) consecutive day period following the date of the written request, the results of surveys performed or such other information reasonably required by the City to evaluate whether Grantee has complied with the above standards. Grantee shall submit such information to the City within ten (10) days following the ninety (90) day survey period. The City may not submit requests for such information more frequently than every thirty (30) days.

1.04. Business Office.

A. Grantee shall maintain a conveniently located customer service office that is capable of accepting payments, adjusting bills, and accepting the return of equipment. There shall be a presumption that an office more than 10 miles from the City is not conveniently located; provided, however, Grantee may, upon written application, request that City Council consent to the location of an office located more than 10 miles from the City. Grantee shall bear the burden of establishing that the location of such office is convenient to the citizens of the City. Upon presentation of reasonable evidence by Grantee, such consent by City Council shall not be unreasonably withheld.

B. The City area office shall be open at least a minimum of forty (40) hours per week. Of that time, the office shall be open a minimum of fours (4) hours on Saturdays between 8 A.M. and 5 P.M. and at least one (1) Monday, Tuesday, Wednesday, Thursday, or Friday, per week, in which the office is open between 5 P.M. and 6 P.M.

C. Grantee shall, upon request from a subscriber, pick up and deliver any equipment used by the subscriber and supplied by Grantee. Such service shall be at no charge to the subscriber other than any required installation charges.

1.05. Service and Repair Calls.

A. All standard service installations, those that are located up to 125 feet from the existing distribution system, shall be made within seven (7) business days after an order has been placed. This standard shall be met no less than 95% of the time under normal operating conditions, measured during any ninety (90) consecutive day

period.

B. Repair requests must be acknowledged within twenty-four (24) hours. Repair must be completed within seventy-two (72) hours under normal operating conditions, and within seven (7) days in unusual circumstances.

C. Grantee shall begin working on service interruptions promptly and in no event later than twenty-four (24) hours after the interruption becomes known. Grantee shall begin working to correct other service problems the next business day after notification of the service problem. This standard shall be met no less than 95% of the time under normal operating conditions, measured during any ninety (90) consecutive day period.

D. Subscribers experiencing service interruptions shall, upon request, be credited as follows:

1. For each cumulative four-hour interruption within a single day, one full day's services and charges;

2. For each consecutive five-day period, ten days' services and charges; or

3. For each consecutive ten-day period or more, one full month's services and charges.

E. Subscribers shall be provided, upon request, with either a time-specific appointment or a predesignated block of time (not to exceed four hours) for a service call. This standard shall be met no less than 95% of the time under normal operating conditions, measured during any ninety (90) consecutive day period.

F. Technical service calls will be available, at a minimum, from 8 A.M. until 7 P.M. on weekdays and from 9 A.M. until 5 P.M. on Saturdays; provided, however, Grantee may schedule such service calls outside of such times for the express convenience of the subscriber.

G. Grantee shall not cancel an appointment for installation or service after the close of business on the business day prior to the scheduled appointment. This standard shall be met no less than 95% of the time under normal operating conditions, measured during any ninety (90) consecutive day period.

H. If the cable installer or technician is running late and will not meet the specified appointment time, he or she shall contact the customer and reschedule the appointment at the convenience of the subscriber.

J. If a historical record of complaints indicates a clear failure to comply with

the above standards, upon written request, Grantee shall provide to the City, for the ninety (90) consecutive day period prior to the date of the written request, such reports or such other information reasonably required by the City to evaluate whether Grantee has complied with the above standards. Grantee shall submit such information to the City within ten (10) days following the ninety (90) day survey period. The City may not submit requests for such information more frequently than every thirty (30) days.

1.06. Billing Practices.

A. Each subscriber bill shall be clear, concise and understandable, with full itemization of services and charges. The bill shall indicate charges for basic and premium service, equipment charges, and a summary of all activity during the billing period, including optional charges, rebates, and credits. Upon request by a subscriber, Grantee shall provide a written, detailed explanation of each line item on the subscriber's bill, including the formulas used to determine how taxes and fees are calculated. Such written explanation shall be furnished to the subscriber within thirty (30) days of the date of the request.

B. Each bill shall clearly state:

1. The due date for payment;
2. The amount of late payment fees; and
3. A telephone number for billing inquiries.

C. Upon initial installation, at least once annually, and, at any time, upon request, each subscriber shall receive written notice of:

1. All equipment and services available and the rates/charges for each;
2. Disconnect policies;
3. Installation and service maintenance policies;
4. Instructions on how to use the cable service;
5. Channel positions of programming carried on the system;
6. Billing and complaint procedures;
7. Notice that complaints not satisfactorily handled by the cable operator may be referred to the City (telephone number must be provided);
8. Availability of parental lock-out devices; and
9. Equipment compatibility information.

Grantee must give thirty (30) days advance notice in writing to each subscriber of any significant changes in this information. Grantee shall respond to written complaints about billing matters within thirty (30) days of receipt.

D. Refunds shall be issued no later than either the customer's next billing

cycle or thirty (30) days following resolution of the request, whichever is earlier, or upon the return of equipment when service is terminated. Credits must be issued no later than the billing cycle following the determination that a credit is warranted.

E. Grantee shall give thirty (30) days advance written notice as required by federal law and regulations to each subscriber of any changes in rates, programming services or channel positions. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change. When the change involves the addition or deletion of channels each channel added or deleted must be separately identified.

F. Grantee shall notify the City in writing of any proposed rate changes, changes in programming services, or channel changes no less than thirty (30) days in advance of the date Grantee intends to implement such changes. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change. When the change involves the addition or deletion of channels each channel added or deleted must be separately identified.

G. Involuntary disconnects shall be given ten (10) days advance written notice of the intent to disconnect and such involuntary disconnection shall not occur less than thirty-one (31) days after the bill's due date.

H. Subscribers may request disconnection at any time without charge. Disconnection and removal of Grantee's equipment shall be completed within thirty (30) days of the date of request.

1.07. Rate Regulation. In the event the City is certified to regulate basic cable service rates pursuant to the 1992 Cable Act and Grantee is subject to such rate regulation by the City and the City is regulating such rates pursuant to FCC rules and regulations, Grantee shall not charge any rate within the City in excess of the maximum rates authorized by the City pursuant to a duly adopted ordinance establishing such rate or rates. Pursuant to Title 47, Code of Federal Regulations, Section 76.943, as amended, it shall be a violation of this Franchise and of the ordinance establishing such rate or rates for Grantee to fail to comply with a rate decision or refund order directed specifically at Grantee.

1.08. Liquidated Damages. In addition to any other remedy provided by law and not in limitation, in the event Grantee fails to comply with the customer service standards established in this Franchise, such failure shall be a violation of this Franchise Ordinance and the City may impose liquidated damages consistent with the procedures set forth in Section 25.03 hereof.

1.09. Reservation of Rights. Notwithstanding anything in this franchise to the contrary, it is specifically understood and agreed by the Grantee, that the City reserves

the right, pursuant to Section 632 of the Cable Act and pursuant to its police powers, to adopt and enforce customer service standards, applicable to all cable operators within the City, that impose customer service requirements that exceed the standards set forth in this Franchise and any regulations and guidelines established by the FCC and/or address matters not addressed herein and, Grantee further understands and agrees that it shall be subject to such standards, to the extent the City has such rights under applicable law.

Exhibit "B"

LOCATION OF FREE DROPS

City Hall (4) Administrative Offices
Municipal Court Clerk
Public Works
Police Station

Fire Station

Library

Huggins Elementary School

United States Post Office

Any future governmental office or school constructed during term of this agreement

Exhibit "C"

ACCESS POLICIES AND PROCEDURES

A. The City, or its designee, shall adopt and enforce policies and procedures for the use of the Public, Educational, and Government access channels which shall, at a minimum, include the standards specified herein.

B. Presentation of the following material on the Public, Educational, or Government access channels shall be prohibited unless 1) allowed by state or federal law; or 2) upon consent of the Grantee, which consent will not be unreasonably withheld taking into account the generally accepted standards and practices of other access channels:

(1) Any material designed to promote the sale of products, services, trade, business or persons;

(2) Material which identifies any product, service, trade mark, or brand name;

(3) Any material which is intended to defraud the viewer or designed to obtain money by false pretenses, representations, or promises;

(4) Direct or indirect solicitation of funds;

(5) All advertisements of (or information concerning) any lottery, gift enterprise, or similar scheme offering prizes dependent, in whole or in part, upon lot or chance; or any list of the prizes drawn or awarded by means of such lottery; gift enterprise, or scheme whether said list contains any part of all of such prizes;

(6) Libelous or slanderous material;

(7) Material that is obscene according to federal, state, or local community standards or is otherwise illegal.

C. A commercial business may underwrite the cost of an access program or provide props and other assistance. A sponsor may be recognized with a brief video and/or audio sponsorship identification.

D. All tapes submitted to City for playback shall be subject to the following:

(1) Audio on channel 2

(2) Program 3/4" Nu-matic tape

(3) At least a thirty (30) second leader

(4) A continuous control track throughout the program, including the leader

(5) All tapes submitted for playback shall meet the following technical standards:

(a) Sync 40 IRE □ 10 IRE

(b) Burst 40 IRE □ 10 IRE

(c) Burst Cycles 9 □ 1 and Frequency 3.579451%

(d) Reference white and black levels, i.e.
White 100 IRE □ 15 IRE
Black 7.5 IRE □ 10%

(e) Noise broadband and impulse minimal

(f) Signal to noise greater than 40 Db

E. Programming that is to be provided via "live" upstream capabilities will require the following:

(1) One (1) week prior notification to the Grantee from the City or its designee of the start time, program content, and expected program duration

(2) Compliance with any and all signal quality requirements of other programming provided by the Grantee

(3) Compliance with any and all content requirements as other Public, Educational or Government access performed via the playback function.

F. Production of programming by organizations within the City will be encouraged. Programming produced by organizations within the City or programming produced by or on behalf of the City shall be given scheduling preference over other programs.

G. At Grantee's head-end, these signals must meet RS-250C medium haul specifications.

ORDINANCE. 05-925

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS ADOPTING THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS) AS THE STANDARD FOR INCIDENT MANAGEMENT BY THE CITY OF FULSHEAR.

* * * * * * * * * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

WHEREAS, on February 28, 2003, the President issued Homeland Security Presidential Directive (HSPD) - 5 that directed the Department of Homeland Security, in cooperation with representatives of federal, state, and local government, to develop a National Incident Management System (NIMS) to provide a consistent approach to the effective management of situations involving natural disasters, man-made disasters or terrorism; and

WHEREAS, the final NIMS was released on March 1, 2004, and

WHEREAS, the NIMS contains a practice model for the accomplishment of the significant responsibilities associated with prevention, preparedness, response, recovery, and mitigation of all major and national hazards situations, and

WHEREAS, the HSPD-5 requires that state and local governments adopt the NIMS by fiscal year 2005 as a pre-condition to the receipt of federal grants, contract and activities related to the management and preparedness for certain disaster and hazard situations; and

WHEREAS, the City Council for the City of Fulshear desires to adopt the NIMS as required by HSPD-5.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR:

Hereby adopts the National Incident Management System dated March 1, 2004.

PASSED, APPROVED AND ADOPTED on this the 20th day of July 2005.

J. Michael Dinges
Mayor

ATTEST:

Kathy Mayfield
City Secretary

ALDERMAN JOHN SMART –	**AYE**
ALDERMAN BILL ARCHER–	**AYE**
ALDERMAN JB COLLINS,JR–	**AYE**
ALDERMAN OWEN BEMENT–	**AYE**
ALDERMAN COLICE WATTS–	**AYE**

ORDINANCE NO. 05-926

AN ORDINANCE APPROVING AND ADOPTING THE CITY OF FULSHEAR, TEXAS, GENERAL BUDGET FOR THE FISCAL YEAR 2006; MAKING APPROPRIATIONS FOR THE CITY FOR SUCH YEAR AS REFLECTED IN SAID BUDGET; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

* * * * *

WHEREAS, within the time and in the manner required by law, the Mayor presented to the City Council a proposed general budget of expenditures of the City of Fulshear for the 2005-2006 fiscal year; and

WHEREAS, pursuant to a motion of the City Council and after notice required by law, a public hearing on such general budget was held at the regular meeting place of the City Council at the City Hall of the City of Fulshear, 30603 F.M. 1093, on the 7th day of September 2005, at which hearing all citizens and taxpayers of the City had the right to be present and to be heard and those who requested to be heard were heard; and

WHEREAS, the City Council has considered the proposed general budget and has made such changes therein as in its judgment were warranted by law and were in the best interest of the citizens and taxpayers of the City; and

WHEREAS, a copy of such general budget has been filed with the City Secretary and the City Council now desires to approve and adopt the same; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The City Council hereby approves and adopts the general budget described in the preamble of this Ordinance, a copy of which is attached hereto and made a part of this Ordinance for all purposes and a copy of which is on file with the City Secretary. The City Secretary is hereby directed to place on said budget an endorsement, which shall be signed by the City Secretary, which shall read as follows:

"The Original General Budget of the City of Fulshear, Texas, for the Fiscal Year 2005-2006."

Such budget, as thus endorsed, shall be kept on file in the office of the City Secretary as a public record.

Section 3. In support of said budget and by virtue of the adoption thereof, including any and all changes adopted thereto, the several amounts specified for the various purposes named in said budget are hereby appropriated to and for such purposes.

PASSED, APPROVED, AND ADOPTED this 29st day of September 2005.

J. Michael Dinges
Mayor

ATTEST:

Kathy Mayfield
City Secretary

JOHN SMART - ABSENT
BILL ARCHER - NAY
OWEN BEMENT - AYE
COLICE WATTS - AYE
J B COLLINS, JR - AYE

ORDINANCE NO. 05-927

AN ORDINANCE PROVIDING FOR THE ASSESSMENT, LEVY, AND COLLECTION OF AD VALOREM TAXES OF THE CITY OF FULSHEAR, TEXAS, FOR THE YEAR 2005 AND FOR EACH YEAR THEREAFTER UNTIL OTHERWISE PROVIDED; PROVIDING THE DATE ON WHICH SUCH TAXES SHALL BE DUE AND PAYABLE; PROVIDING FOR PENALTY AND INTEREST ON ALL TAXES NOT TIMELY PAID; PROVIDING FOR SEVERABILITY; AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH.

* * * * *

WHEREAS, pursuant to Section 26.05 of the Texas Property Tax Code, the governing body of each taxing unit shall adopt a tax rate for the current tax year; and

WHEREAS, all notices and hearings required by law as a prerequisite to the passage, approval, and adoption of said tax rate ordinance have been timely and properly given and held; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are found to be true and correct and are hereby adopted, ratified, and confirmed.

Section 2. All property subject to ad valorem taxation by the City of Fulshear, Texas, shall be equally and uniformly assessed for such purposes at One Hundred Percent (100%) of the fair market value of such property.

Section 3. There is hereby levied for general purposes and use by the City of Fulshear, Texas, for the year 2005, and for each year thereafter until otherwise provided, an ad valorem tax at the rate of Thirty-two and 743/1000 Cents ($.32743) on each One Hundred Dollars ($100) of assessed valuation on all property, real, personal, and mixed, within the corporate limits upon which an ad valorem tax is authorized by law to be levied by the City of

Fulshear, Texas. The proceeds from such tax shall be applied to the payment of the general and current expenses of the government of the City. All such taxes shall be assessed and collected in current money of the United States of America. THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE. THE TAX RATE WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A $100,000 HOME BY APPROXIMATELY $ 24.25.

Section 4. All ad valorem taxes levied hereby, as reflected by Section 3 hereof, shall be due and payable on or before January 31, 2006. All ad valorem taxes due the City of Fulshear, Texas, and not paid on or before January 31 following the year for which they were levied shall bear penalty and interest as prescribed in the Property Tax Code of the State of Texas.

Section 5. All ordinances and parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 6. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 29st day of September 2005.

J. Michael Dinges
Mayor

ATTEST:

Kathy Mayfield
City Secretary

JOHN SMART - ABSENT
BILL ARCHER - NAY
OWEN BEMENT - AYE
COLICE WATTS - AYE
J B COLLINS, JR - AYE

ORDINANCE NO. 05-928

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS DECLARING THE CITY'S SUPPORT OF AND CONSENT TO THE CREATION OF THE NORTH FORT BEND WATER AUTHORITY.

* * * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The City Council hereby declares its support of the creation of the North Fort Bend Water Authority (the "Authority") by the Legislature of the State of Texas in Senate Bill 1798 of the 79th Regular Session of the Legislature. The City Council hereby consents to the creation of the Authority, subject to the terms and conditions set forth in Exhibit "B" attached hereto.

Section 2. The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was given, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been disclosed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 3. A public emergency exists requiring that this ordinance be passed finally on the date of its introduction; therefore, this ordinance shall take effect immediately upon its passage and approval.

PASSED, AND APPROVED AT A SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, HELD ON THE 29st DAY OF SEPTEMBER 2005.

CITY OF FULSHEAR, TEXAS

J. Michael Dinges, Mayor

ATTEST:

Kathy Mayfield, City Secretary

JOHN SMART - ABSENT
BILL ARCHER - AYE
OWEN BEMENT - AYE
COLICE WATTS - AYE
J B COLLINS, JR - AYE

ORDINANCE NO. 05-929

AN ORDINANCE ESTABLISHING PROCEDURES FOR THE CONSIDERATION OF ECONOMIC DEVELOPMENT PROJECTS WITHIN THE CITY

WHEREAS, the City desires to adopt an ordinance providing for the procedures for the consideration of economic development incentives and the use of economic development tools; and

WHEREAS, to be consistent in the consideration and review of new development and/or redevelopments within the City it is necessary to approve this Ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1: That the City Council of the City of Fulshear, Texas, hereby approves the Procedures for the Consideration of Economic Development Projects Within the City, as described in Exhibit "A" attached hereto and made a part hereof for all intents and purposes.

Section 2: That this Ordinance shall be in full force and effect from and after its passage and adoption.

PASSED AND ADOPTED this 29th day of September, 2005.

Michael Dinges, Mayor
City of Fulshear, Texas

ATTEST:

Kathy Mayfield
City Secretary

JOHN SMART - ABSENT
BILL ARCHER - AYE
OWEN BEMENT - AYE
COLICE WATTS - AYE
J B COLLINS, JR - AYE

76801

CITY OF FULSHEAR, TEXAS

PROCEDURES FOR THE CONSIDERATION OF ECONOMIC DEVELOPMENT PROJECTS WITHIN THE CITY

1. Purpose of Procedures

The City will consider the use of economic development incentives to promote new development and redevelopment where it can be demonstrated that an increase in tax revenue can be reasonably expected and the overall quality of life of the people who live or work in the City can be improved. This policy is applicable to any project within the City that requests economic development incentives from the City. For those proposed developments that meet the goals and criteria of the City, the City is willing to consider any applicable economic development tools authorized for use by general law cities in Texas.

The purpose of establishing these procedures is to establish a common understanding and consistent approach to guide developers, the City and the general public through a standardized process for the review of economic development proposals requested in the City.

2. Goals of these Procedures

a. Provide clear consistent process for the consideration of economic development projects.

b. Promote projects that encourage the realization of important City objectives including any of the following:

(i) Improvement of the City's infrastructure,
(ii) Increase in tax revenue,
(iii) Ensuring high quality, well planned developments,
(iv) Job creation,
(v) Promotion of the Future Vision Report, and
(vi) Improvement of the quality of life in the City.

3. Evaluation Procedure

Each proposal for the consideration of economic development projects will be reviewed by the following procedures:

a. Prior to the submission of any proposal, the developer is required to request a pre-submission meeting with the City. This meeting will be attended by City representatives. The purpose of the pre-submission meeting is to address questions regarding the proposal, the review

process and to give a general understanding of whether there is a reasonable expectation of City support for the proposed going forward.

b. The Developer submits proposal to the City. The proposal is filed with the City Secretary.

c. The City will conduct an initial evaluation to determine if additional information is required.

d. A review team will evaluate the proposal. The review team will consist of the following:

   (i) The Mayor,
   (ii) City Secretary,
   (iii) Chairman Planning Commission, and
   (iv) One City Council member appointed by the Mayor

e. A review team meeting with the developer will be held, if needed.

f. The review team will submit a report and recommendations to the City Council.

g. The City Council will consider the review team recommendation and take action.

h. Agreements will be prepared, if approved.

4. Application Requirements

Each application for the consideration of an economic development project shall include at a minimum:

a. Project description;
b. Private expenditure requirements;
c. Public infrastructure requirements;
d. Projection of increased assessed value;
e. Projection of sales and use taxes;
f. Economic development assistance needed;
g. Financial capability of Developer;
h. Developer Resume;
i. Any changes or variances requested to City ordinances;
j. Proof of access to public rights of way;
k. Any street closings or other actions requested of City Council;
l. A $5,000 application fee for the cost of staff and outside consultant review of the application.

ORDINANCE NO. 05-930

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS ESTABLISHING TERMS, CONDITIONS, AND STANDARDS OF SANITARY SEWER AND POTABLE WATER UTILITY SERVICE PROVIDED BY THE CITY TO CUSTOMERS; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS ($2,000.00) FOR VIOLATION OF ANY PROVISION HEREOF; REPEALING ORDINANCE NO. 88-757 APPROVED AND ADOPTED ON THE 7TH DAY OF JUNE, 1988 AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR SEVERABILITY.

* * * * * * * * * * *

WHEREAS, the City of Fulshear (the "City") provides potable water and sanitary sewer utility service to persons and businesses located within the corporate limits of the City and to selected persons and businesses not within the corporate limits of the City ("nonresidents"); and

WHEREAS, the City Council of the City finds it in the best interest of the health, safety and welfare of its residents to establish rules and regulations related to the safe operation of said utilities; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

ARTICLE I – GENERAL

Section 1.01. Definitions. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Utility shall mean and include water, sewer, gas and/or any other utility service furnished by the City to consumers thereof.

Fire line shall mean a water line installed and designated by the City Council to provide water for fire and emergency purposes only and shall not be considered to be a water line for purposes of requiring structures to connect to the line if the structure is located within 300 feet of the water line. The designation of a fire line may change by act of City Council.

Sanitary sewer shall mean a public sewer that conveys domestic wastewater, industrial waste, or a combination of both, and into which stormwater, surface water, groundwater and other unpolluted wastes are not intentionally passed.

Section 1.02. Scope of ordinance. All pertinent provisions of this ordinance are hereby made a part of the terms and conditions whereby the City shall furnish any utility service to any person, or whereby the City shall make any utility connections, or perform any work of any kind in connection with the furnishing of any utility service pursuant ot the rules and regulations of the City Council.

Section 1.03. Service to comply with technical provisions. Any utility service furnished under the provisions of this ordinance shall be in accordance with and in compliance with all applicable technical provisions of this Ordinance, state law and city ordinances, rules and regulations.

Section 1.04. Inspection. In order to protect the utility service supply, the City will not make any water or sewer taps until the premises involved have been inspected and approved by the City's building inspector.

Section 1.05. Right of entry. Any authorized inspector of the City shall have free access during normal business hours (defined for these purposes as 9:00 AM to 5:00 PM) to all premises supplied with any utility service by the City for the purposes of examination in order to protect the utility services from abusive use.

Section 1.06. Damage, trespass of equipment. It shall be unlawful for any person, not having authority to do so, to open any water hydrant or tamper with any utility service furnished by the City to consumers, or to in any other way molest, damage or trespass upon any equipment or premises belonging to the City connected with any utility service.

Section 1.07. Utility service – Application required. Any person desiring any utility service furnished by the city shall make application for the same to the utility office. Such application shall contain the applicant's name, address and the uses for which such utility service is desired.

Section 1.08. Utility service – Not available to debtors. The city may decline or fail to or cease to furnish utility service to any person who may be in debt to the city for any reason, except ad valorem taxes and special assessments.

Section 1.09. Utility service – Approval of application. Approval of the application for any utility service by the utility office shall be deemed permission for such service.

Section 1.10. Utility service – Use assumed. All premises connected to any utility service of the city shall be assumed to be using such utility service and the owner or occupant shall be charged therefor so long as such premises shall remain connected with the utility service.

Section 1.11. Utility service – Not to use contrary to permit. Any person having a permit from the city for the use of any utility service offered by the city who shall use such utility service for any purpose other than mentioned in such permit or who shall make any unauthorized changes in such service shall be deemed guilty of a misdemeanor.

Section 1.12. Temporary interruption of service. The City reserves the right to cut off any utility service without notice in the case of emergencies. When an interruption in service is necessary for the maintenance and improvement of the utility system, affected customers will be notified as circumstances permit.

Section 1.13. Restricting use. The City hereby reserves the right to, at any time, restrict or prevent the use of any utility service furnished by the City during periods of emergency or other circumstances demanding such restriction or prevention of use.

Section 1.14. Sale of service by customer. It shall be unlawful for any person to resell to others any utility service obtained from the City except only by special arrangement with the City Council of the City.

Section 1.15. Separate connections. Every building, structure or consumer in the city shall have a separate utility service connection.

Section 1.16. Connections to service. Connections for any utility service furnished by the City shall be made only under the supervision or by the written permission of the building inspector; provided, however, that all connections to the City sewer system shall be approved by the designated operator of the City's water and sewer systems.

Section 1.17. Unlawful connections. Any person who shall make any connection in any manner to any utility system, whether owned by the City or not, without the prior knowledge and consent of the owner of such utility system, shall be deemed guilty of a misdemeanor, punishable by the terms of this ordinance.

Section 1.18. Maintenance of system by consumer. The consumer of any utility service furnished by the City shall maintain and keep in good repair all connections, appliances and other apparatus installed and used in connection with such utility service.

Section 1.19. Fees. All customers of the City's utility services shall pay the fees adopted by resolution of the City Council. A copy of such fees shall be kept in the office of the City Secretary and made available to the public at any time.

ARTICLE II – SANITARY SEWER AND POTABLE WATER SYSTEMS

Section 2.1. Compliance with ordinance. To ensure proper operation of the entire sewage collection and processing system, all approved connected users of the City's sewage disposal system, either within or outside the corporate limits, must comply with the provisions of this ordinance and are subject to all requirements and regulations of this ordinance.

Section 2.2. Required; standards. Every owner of a building or a part thereof, located within the City and used for human occupancy any part of the day or night, where a main or lateral sewer line of the public sewer and water systems of the City is laid and maintained by the City within 175 feet of the tract whereon such building is located or proposed shall install

within such building or part of such building, or upon the premises where such building is situated, toilet facilities and shall have such toilet facilities connected to the City's public sewer and water systems Every such toilet shall be supplied with water and with a water flush tank adequate to properly flush such toilet.

Section 2.3. Use of fixtures in violation of ordinance. It shall be unlawful for any person, whether as owner, agent of the owner, or lessee, tenant, proprietor or occupant of any building or part of building or premises which shall be or is located on a tract of land where a main or lateral sewer line of the public sewer system of the City exists or is laid and maintained by the City within 175 feet of such tract, or which building or tract shall otherwise come within the provisions of Section 2.2 of this ordinance, to construct, use or maintain, or permit to be constructed, used or maintained, upon the lot, parcel of land or premises upon which such building or part of building is located, any privy, water closet, slop drain, bathtub drain, shower bath drain, wastewater drain or any other receptacle whatever used or to be used for the purpose of receiving and discharging sewage matter, wastewater or slop of any kind, unless the same shall be connected with the public sewer system of the City.

Section 2.4. Construction plan to show compliance. No permit shall be issued for the construction of any building in the City on any lot or any parcel of land where there is a main or lateral line of the public sewer or water system of the City adjoining such lot or parcel of land or where such lot or parcel of land shall come within 175 feet of such main or lateral sewer or water line of the City unless the plans and specifications show compliance with this and other ordinances of the City.

Section 2.5. Sewer line maintenance and construction.

(a) *Sanitary sewer tap.* All sanitary sewer taps to the City main line or any other City sanitary sewer line shall be constructed by The designated operator of the City's water and sewer systems, except when otherwise noted on the City construction plans and approved by The

designated operator of the City's water and sewer systems. No customer, private contractor, private plumber or other entity shall be allowed to make connections to the City's sewer line, except when such connection is allowed by the City and noted on the City-approved construction plans.

(1) The customer is responsible for the construction and maintenance of the building sewer line.

(2) For the purposes of this section, "building sewer line" shall mean the sewer line that runs between the building and the property line, utility easement, City property line, or other point as designated by The designated operator of the City's water and sewer systems where the maintenance of the sewer line by the City begins.

(3) The City is responsible for the maintenance of the City main line and all sewer lines and sewer taps at all points other than the building sewer line.

(4) A current schedule of the rates, charges and deposits as adopted by resolution of the City Council for foregoing taps and services shall be maintained in the office of the City Secretary.

(b) *Maintenance of building sewer line.* If the improper maintenance of a building sewer line causes such line to receive dirt or exterior water into the building line, the owner shall be notified by the City and may be given up to ten (10) days, as determined by the designated operator of the City's water and sewer systems, to repair the building sewer line. Upon a necessity for immediate repairs, the City shall be authorized to cut off the water to the property until such repairs are made. Upon major sewer problems, The designated operator of the City's water and sewer systems may extend the time in which to make such repairs; provided, however, the City may keep the water shut off during the repair period.

(1) If the owner of the building sewer line does not repair the sewer line within the time allowed after said notice, The designated operator of the City's water and sewer systems may cause the water service to the property to be terminated, and/or may cause the sewer service to be disconnected totally from the City's main line, and /or may, through the City's building inspector, cause to be filed a complaint in the City's municipal court for failing to repair such building sewer line as requested.

(2) Any owner who violated any part of subsection (1) of this section shall be guilty of a misdemeanor and, upon conviction, shall be subject to punishment in accordance with the penalties allowed by this ordinance. Each day that such repairs are not made shall constitute a separate and distinct offense.

(3) If the sewer service has been disconnected totally from the City's main line as the result of the owner of the building sewer line failing to repair the sewer line as requested by The designated operator of the City's water and sewer systems, and thereafter, The designated operator of the City's water and sewer systems determines that the building sewer line has been repaired as required and is requested to reconnect to the main sewer line, the building line shall be reconnected to the City's main line, but only after the City has received a fee of $200.00 for reconnection of the service.

Section 2.6. Cesspools, septic tanks, etc. prohibited where sewer service available; not to be connected with sewer system. It shall be unlawful for any person, whether as owner, agent of the owner, lessee, tenant, proprietor or occupant of any building or part of any building, or of any lot, parcel of land or premises coming within the provisions of Sections 2.2 and 2.3 of this ordinance, to construct, use or maintain or permit to be constructed, used or maintained on

such lot, parcel of land or premises, any cesspool, septic toilet, septic tank or pit toilet. No cesspool, septic toilet, septic tank or privy vault shall be connected with the public sewer system.

Section 2.7. Use of premises without required toilets. It shall be unlawful for the owner or occupant of any building within the City, any portion of which is used for any portion of the day, to fail to have at least one toilet in such building connected with the public sewer, except in the case where two or more such buildings are used by one person, firm or corporation, which shall require but one connection.

Section 2.8. Uncovering sewer; connecting without authority. It shall be unlawful for any person to uncover any portion of the public sewer or water systems for any purpose, or to make connection therewith, or to uncover the public connection branches thereof, unless by consent or under the supervision of the City or its duly authorized agents.

Section 2.9. Obstruction of or damage to sewer system. It shall be unlawful for any person to obstruct, puncture, cut or in any way injure any of the pipes, works, drains, or machinery belonging to or connected with any sewer or water system owned, used or operated within the City, or to place or drop or throw any substance whatever into the sink toilet, bathtub, vessel drains or other receptacles belonging to or connected with any sewer or water system owned, used or operated within the City, which may obstruct or injure such sewer or water system.

Section 2.10. Depositing sewage on ground. It shall be unlawful for any person to throw or allow to be thrown or deposited on the surface of the ground, or in any hold or vault or under the surface of the ground, within the corporate limits of the City, except in the proper and necessary manuring of the soil, any liquid or solid filth, human feces or human urine. Nothing in this section or this ordinance shall be construed to prohibit the proper operation of permitted septic systems.

Section 2.11. Depositing wastewater on streets or in ditches. It shall be unlawful for any person to allow any slop, drainings, wash or wastewater of any kind to flow over the pavement or into any street or into open ditches within the corporate limits of the City.

Section 2.12. Depositing garbage. It shall be unlawful for any person to deposit any garbage, offal, dead animals, filth or any substance having a tendency to obstruct the flow of sewage in any manhole, lamphole, flush tank or sewer open within the corporate limits of the City.

Section 2.13. Deposit of caustics. It shall be unlawful for any person to discharge acids, caustics, chemicals, fuels or waste oil and greases into the sewer system which may damage any lines, bacteria or plants. The designated operator of the City's water and sewer systems is hereby authorized to inspect, during reasonable business hours, any and all such commercial systems discharging caustics described herein into the City's sewer system. A fee for such inspections may be imposed when authorized by City Council pursuant to Section 1.19 of this Ordinance.

Section 2.14. Preventing illegal discharges. The City is hereby empowered to stop and prevent from discharging into the public sewer through any private drain or commercial connection, the discharge of any materials or substances that are liable to injure such sewers or sewage processing system or to obstruct the flow of sewage, or on which the sewer charges according to the schedule adopted by resolution of the City Council of the City have not been paid.

Section 2.15. Water tap and service line construction and maintenance.

(a) The City will tap the water main line and extend a service line across the street right-of-way or utility easement to the customer's property line and set meter box. The customer will then tie into, meter, and construct a service line to the building. The City will maintain the

water service line from the water main line to the water meter located adjacent to the customer's property line.

(b) The customer will maintain the building service line from the point it ties into the water meter to the customer's building.

(c) A current schedule of the fees, charges and deposits for the connections and extensions contained in this section, as adopted by City Council resolution, shall be maintained in the office of the City Secretary.

(d) No dual connections shall be allowed. For the purposes of this section, the term "dual connections" shall mean connections having more than one user on a single meter.

Section 2.16. Water and sewer service fees for nonresident customers. The rates for water and sewer system services to be charged to customers located outside the City's corporate limits shall be 1.5 times that charged to customers located inside the City's corporate limits. Such nonresident customer rates shall be calculated by multiplying the base rates heretofore approved by resolution of the City Council and on file in the City Secretary's office by 1.5.

ARTICLE III – CONCLUSION/PENALTIES

Section 3.1. Penalty. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed two thousand and no/100 dollars ($2,000.00). Each day in which any violation shall occur, or each occurrence of any violation, shall constitute a separate offense.

Section 3.2. Ordinance No. 88-757 and all other ordinances or parts of ordinances in consistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 3.3. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or

invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 19 day of October, 2005.

J. Michael Dinges, Mayor

ATTEST:

Kathy Mayfield, City Secretary

John Smart	**-**	**AYE**
Colice Watts	**-**	**AYE**
J.B.Collins	**-**	**AYE**
Bill Archer	**-**	**AYE**
Owen Bement	**-**	**AYE**

ORDINANCE NO. 05-931

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS ADOPTING THE 2003 EDITION OF THE *INTERNATIONAL FIRE CODE*, INCLUDING APPENDICES OTHER THAN APPENDIX A, AS PUBLISHED BY THE INTERNATIONAL CODE COUNCIL, INC.; PROVIDING CERTAIN AMENDMENTS TO THE CODE ADOPTED HEREBY; REPEALING ORDINANCE NO. 04-912 PASSED AND APPROVED ON THE 16TH DAY OF JUNE, 2004 AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED $2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; AND PROVIDING FOR SEVERABILITY.

* * * * * * * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. **The *International Fire Code.*** The International Fire Code, 2003 Edition, including all appendices except Appendix A, as published by the International Code Council, Inc., a copy of which is attached hereto and made a part hereof for all purposes, an authentic copy of which has been filed with the City Secretary, is hereby adopted and made a part of this Ordinance.

Section 2. **Amendments to the *International Fire Code*.**

(a) Section 101.1 is hereby amended to read as follows:

"101.1 Title. These regulations shall be known as the *Fire Code* of the City of Fulshear, Texas, hereinafter sometimes referred to as "this code."

(b) Section 103.2 is hereby amended to read as follows:

"103.2 Appointment. The City Council may, by resolution, appoint a Fire Marshall (sometimes referred to in *Fire Code* as "code official"). The Fire Marshall will serve in an at-will basis and may be terminated at any time by either party.

(c) Section 104 is hereby amended by adding a new Section 104.3.2 to read as follows:

"**104.3.2 Public occupancies**. The code official or his authorized representative may at all reasonable times have free access and right of entry to any building intended for public occupancy or other public purposes, whether completed or under construction. No person, owner or occupant of any building or premises intended for public occupancy or other public purposes shall fail, after property credentials are displayed, to permit entry into any building or onto any property by the code official or his authorized agent for the purpose of inspections pursuant to this code."

(d) Section 106 is hereby amended by adding a new Section 106.4 to read as follows:

"**106.4 Periodic Inspections**. As often as is deemed necessary, the code official shall enter upon and make a thorough examination of all mercantile, manufacturing, commercial, and public buildings, together with the premises belonging thereto, in order to ensure compliance with this code."

(e) Section 108.1 is hereby amended to read as follows:

"**108.1 Membership of the Board**. In order to hear and decide appeals of orders, decisions or determinations made by the code official relative to the application and interpretation of this code, there shall be and is herby created a board of appeals. The City Council of the City of Fulshear shall act as the board of appeals."

(f) Section 109.3 is hereby amended to read as follows:

"**109.3 Violation penalties.** Any person, firm, corporation or agent who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be guilty of a misdemeanor and upon conviction may be punished by a fine not to exceed $2,000. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provision of this code is committed or continued."

(g) Section 110 is hereby amended by adding a Section 110.1.3 to read as follows:

"**110.1.3 Inadequate Egress.** All buildings or structures which do not provide adequate egress, which constitute a fire hazard or are otherwise dangerous to human life, or which, in relation to existing use, constitute a hazard to safety or health are considered unsafe buildings. The code official shall refer the building to the City code enforcement official for abatement in accordance with applicable provisions of this code or other ordinances of the City."

SECTION 503
ACCCESS TO BUILDINGS BY FIRE APPARATUS

"**503.1 Security Gates.** Where security gates are installed, they shall be maintained and a means for emergency operation shall be provided and maintained as approved by the code official.

503.2 Combustible Storage Buildings. See IFC 2306 for access to high-piled combustible storage buildings.

503.3 Fire Lanes.

503.3.1 Location. The location of fire lanes shall be determined by the code official in conformity with the provisions of Section 503.3.

503.3.2 When required. No building used for any purpose other than single-family or two-family dwellings shall be constructed so that any part of the perimeter of the structure is greater than one hundred fifty feet (150') from a public street or highway, unless the owner constructs and maintains a fire lane having a minimum height throughout of not less than fourteen feet (14'), a minimum width throughout of twenty feet (20'), and terminating within one hundred fifty feet (150') from the farthest point of said structure.

503.3.3 Sprinkler/Standpipe Systems Access. A fire lane shall be required for access to fire department connections to automatic sprinkler systems and standpipe systems.

503.3.4 A fire lane shall be required when the fire official determines that reasonable life safety would necessitate unrestricted access by emergency apparatus.

503.3.5 Preexisting Construction. Any building, structure or facility constructed without fire lanes prior to July 9, 1987, shall be exempt from the requirement for a fire lane as provided in Section 503.3.

503.3.6 Termination of Fire lanes. When not connected at both ends to a public street, fire lanes shall terminate in a turnaround having a minimum Radius or thirty-eight and one-half feet (38-1/2')l.

503.3.7 Surface. All fire lanes shall be all-weather surfaced and shall be maintained in an operable condition.

503.3.8 Obstruction free. The owner or his representative of a building which is adjacent to the fire lane shall be responsible for keeping the fire lanes free of obstruction.

503.3.9 No parking within. There shall be no parking within any fire lane at any time. For the purposes of this subsection, "parking" shall mean to stand on occupied or unoccupied vehicle other than while in the process of loading or unloading passengers.

503.3.10 Markings/Signage. Fire lanes shall be conspicuously marked and shall have signs posted that read "Fire Lane – No Parking" in four-inch (4") white letters on a red background. The signs shall be located along the curb line or, in cases where there is no curb, hall be placed on the side of the building with red letters on a white background, or by other approved methods as determined by the code official. The signs shall be placed no less than thirty feet (30') ad no greater than forty feet (40') apart. The signs shall be maintained in good condition so as to be legible at all times. It shall be the responsibility of the owner (or his representative) of the building adjacent to the fire lane to place and maintain the signage required by this subsection.

503.3.11 Elimination Prohibited. No owner or person in charge of any premises served by a required fire lane shall abandon or close any such fire lane without first making a written request to, and receiving written permission from, the code official."

(j) Section 901.8 is hereby amended to read as follows:

"901.8 Tampering with Fire Hydrant or Fire Appliance. No person shall remove, tamper with, or otherwise disturb any fire hydrant or fire appliance required to be installed or maintained under the provisions of this code except for the purpose of extinguishing fire, training purposes, recharging, or making necessary repairs, or when permitted by the code official. Whenever a fire appliance is removed as herein permitted, it shall be replaced or reinstalled as soon as the purpose for which it was removed has been accomplished. The code official is hereby expressly authorized to aid in the enforcement of this section and toward that end may issue citations to persons found removing, tampering with, or otherwise disturbing any fire hydrant or fire appliance in violation of the provisions of this section."

Section 2. Any person who shall violate any provision of this Ordinance, or any provision contained in any code adopted hereby, shall be deemed guilty of a misdemeanor and,

upon conviction, shall be fined in an amount not to exceed $2000. Each day of violation of any such provision shall constitute a separate offense.

Section 3. **Repealer**. Ordinance No. 04-912 passed and approved on the 16th day of June, 2004, and all ordinances or parts of ordinances inconsistent or in conflict herewith, are, to the extent of such inconsistency or conflict, hereby repealed.

Section 4. **Future Amendments**. Future amendments of said *International Fire Code*, 2003 Edition, not including clarifications or technical notices of any type, are not adopted by this Ordinance and must be subsequently approved and adopted by the City Council.

Section 5. **Effect of Code**. This Code shall not be construed to relieve or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the City Council, the City, its agents or representatives assume any such liability by reason of these regulations or the inspections authorized by this Code or any permits or certificates issued under this code.

Section 6. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, AND APPROVED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, HELD ON THE 19th DAY OF OCTOBER 2005.

J. Michael Dinges, Mayor

ATTEST:

Kathy Mayfield, City Secretary

John Smart	-	AYE
Bill Archer	-	AYE
Colice Watts	-	AYE
Owen Bement	-	AYE
J.B. Collins	-	AYE

ORDINANCE NO. 05-932

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, PROVIDING FOR THE ADOPTION OF THE *INTERNATIONAL BUILDING CODE*, 2003 EDITION (NON-RESIDENTIAL), AS PUBLISHED BY THE INTERNATIONAL CODE COUNCIL, INC.; PROVIDING REGULATIONS RELATING TO THE CONSTRUCTION, ALTERATION, ENLARGEMENT, REPLACEMENT, AND REPAIR OF BUILDINGS AND STRUCTURES WITHIN THE CITY; PROVIDING CERTAIN AMENDMENTS AND DELETIONS TO SAID *INTERNATIONAL BUILDING CODE*; ESTABLISHING FEES FOR THE ISSUANCE OF PERMITS; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED $2,000 FOR EACH VIOLATION OF ANY PROVISION HEREOF; REPEALING ORDINANCE NO. 02-887, PASSED AND APPROVED ON AUGUST 21, 2002, AS AMENDED, AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.

* * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. **The International Building Code**. The *International Building Code,* 2003 Edition (non-residential), hereinafter sometimes referred to as the "Code," as published by the International Code Council, Inc., is hereby adopted. A copy of said Code is attached hereto and made a part hereof for all purposes, an authentic copy of which has been filed with the City Secretary.

Section 2. **Amendments to the International Building Code.**

(1) Section 103 of said Code is hereby deleted and a new Section 103 is substituted therefor as follows:

> "**103 Department of Building Safety**. The enforcement of this code shall be under the administrative and operational control of the building official. The building official shall have such duties, and shall be selected and serve in the position at the pleasure of the City Council and may be removed without cause by City Council. The building official may appoint deputies to assist him/her, subject to City Council approval. Said deputies shall serve at the pleasure of the city council and may be removed without cause by City Council."

(2) Section 104 of said Code is hereby deleted and a new Section 104 is substituted therefor as follows:

"104 Powers and Duties of the Building Official.

104.1 General. The building official is hereby authorized and directed to enforce all of the provisions of this code. The building official shall have the power to render interpretations of this code and to adopt and enforce written rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this code.

104.2 Right of Entry. When it is necessary to make an inspection to enforce the provisions of this code, or when the building official has reasonable cause to believe that there exists in a building or upon its premises a condition which is contrary to or in violation of this code which makes the building or premises unsafe, dangerous, or hazardous, the building official may request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

104.3 Stop Orders. Whenever any work is being done contrary to the provisions of this code the building official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall stop work until authorized in writing by the building official to proceed with the work.

104.4 Modifications. When there are practical differences involved in carrying out the provisions of this code, the building official may grant modifications for individual cases. The building official must find that a special reason makes the strict letter of this code impractical and that modification is in conformance with the intent and purpose of this code, and that such modification does not lessen accessibility, health, life and fire safety, or structural integrity. The details of any action granting modifications shall be written and recorded and entered in the files of the City.

104.5 Alternate Materials, Alternative Design and Methods of Construction. The provisions of this code are not intended to prevent the use of a material, alternate design, or method of construction not specifically prescribed by this code, provided any alternate has been approved by the building official.

The building official may approve any such alternate, provided the building official finds that the proposed material, design, or method is satisfactory and complies with the provisions of this code and that the material and method of work offered is, for the purpose intended, at least equivalent of that prescribed in this code in suitability, effectiveness, fire resistance, durability, and safety.

The building official shall require that sufficient written evidence or proof be submitted to substantiate any claims that may be made regarding an alternate. The details of any action granting approval of an alternate shall be written and recorded and entered in the files of the City.

104.6 Tests. Whenever there is insufficient evidence of compliance with any of the provisions of this code or evidence that any material or work does not conform to the requirements of this code, the building official may require tests as proof of compliance to be made at no expense to the City.

Test methods shall be as specified by this code or other recognized test standards. If there are no recognized and accepted test methods for the proposed alternate, the building official shall determine test procedures.

All tests shall be made by an approved agency. Reports of such tests shall be retained by the building official for the period required for the retention of public records."

(3) Sections 105.1, 105.1.1, and 105.1.2 of said Code are hereby deleted in their entirety.

(4) Section 105.2 of said Code is hereby amended by deleting the exemptions listed 1 through 13 under "Building" and replacing said list as follows:

"**105.2 Work exempt from permit**.

. . .

Building:

1. Sidewalks and decks.

2. Painting, papering, tiling, carpeting, cabinets, countertops, or similar finish work.

3. Prefabricated swimming pools accessory to a group R-3 occupancy, which are less than twenty-four inches (24") deep, do not exceed five thousand (5000) gallons, and are installed above ground.

4. Swings and other playground equipment accessory to one and two family dwellings."

(5) Section 105.5 of said Code is hereby deleted and new Section 105.5 is substituted therefor as follows:

"105.5. Expiration: No construction schedule. Every permit issued shall become invalid unless the work at the site authorized by such permit is commenced within 180 days after its issuance. The building official is authorized to grant, in writing, an extension or extensions of such permit, provided the maximum term of said permit shall not exceed one and one-half (1-1/2) years. If any permitted work is not completed within this limitation, then the permit shall become invalid and must be reissued in order to resume work, together with payment of fees for such reissued permit.

Work pursuant to a construction schedule. A permit may be issued for a reasonable period of time, which coincides with a written construction schedule prepared by a licensed architect or engineer, and filed with the City. The building official is authorized to grant, in writing, an extension or extensions of such permit, provided the maximum term of said permit shall not exceed two (2) years. If any permitted work is not completed within this limitation, the permit shall become invalid and must be reissued in order to perform or resume work, together with payment of fees for such reissued permit."

(6) Section 105 of said Code is hereby amended by adding a new Section 105.8, which provides as follows:

"105.8 Liability Insurance. The person or entity that will actually perform the work or services covered by a permit shall provide to the City evidence of comprehensive general liability insurance, issued by a company licensed to do business in Texas, in the following amounts, for the duration of the permit, and shall furnish certificates of insurance to the City as evidence thereof. The certificates shall provide that the insurance shall not be canceled, reduced, or changed without 30 days advance notice to the City.

Comprehensive general liability insurance covering all risks associated with the work, with a minimum bodily injury limit of $100,000, $300,000 per occurrence, and a property damage limit of $400,000, or a property damage limit equal to or exceeding the amount of the contract amount, whichever is greater."

(7) Section 108.2 of said Code is hereby deleted and a new Section 108.2 is substituted therefor as follows:

"Section 108.2 Schedule of permit fees. For buildings, structures, or electrical, gas, mechanical, and plumbing systems or alterations thereof requiring a permit, a fee for each permit shall be paid as required, in accordance with the City of Fulshear's Fee Schedule, as it may be amended from time to time by City Council."

(8) Section 108.4 of said Code is hereby deleted and a new Section 108.4 is substituted therefor as follows:

> **"108.4 Work commencing before permit issuance**. The fee for work commenced without a permit shall be double the fee set forth in the fee schedule adopted by the City."

(9) Section 110.1 of said Code is hereby deleted and a new Section 110.1 is substituted therefor as follows:

> **"110.1 Use and Occupancy**. No Building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, until the building official has issued a certificate of occupancy therefor as provided herein.
>
> Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the City. Certificates presuming to give authority to violate or cancel the provisions of this code or other ordinances of the City shall not be valid."

(10) Section 112.1 of the Code is hereby deleted and new Section 112.1 is substituted therefor as follows:

> **"112.1. Appeals**. Appeals of orders, decisions, or determinations made by the City's building official in interpreting or applying this Code shall be to the City Council. The City Council may obtain the assistance of persons who are qualified by experience and training on a particular subject under consideration."

(11) Section 112.3 of the Code is hereby deleted in its entirety.

(12) Section 113 of the Code is deleted in its entirety and the penalty provision of this Ordinance is substituted in its place.

(13) Section 903, entitled "Sprinkler Systems" is hereby deleted.

(14) Sections 1507.8 and 1507.9 of said Code are hereby amended by deleting both sections in their entirety and a new Section 1507.8 is hereby substituting therefor to provide as follows:

> **"1507.8 Wood Shingles and Shakes**.
>
> (a) Allowed roof coverings of any structure regulated by this International Building Code shall be as provided in this Section.

(b) Wood shingles and shakes are not allowed, shall not be allowed as an alternative material, and shall not be installed or used on any new construction or re-roofing of any structure.

c) Existing structures which have wood shingles or shakes may be repaired with fire-retardant shingles or shakes of a comparable grade; however, owners shall have the option of installing any allowed Class A, Class B, or Class C roofing material, over the existing wood shingles and shakes, providing the existing roof structural system is adequate for modification. "Repair" means the replacement of damaged or destroyed shingles or shakes, provided the area repaired does not exceed twenty-five percent (25%) of the square foot surface area of the roof. A wood shingle or shake roof may not be replaced with wood shingles or shakes in increments which are undertaken as repairs."

Section 3. **Appendices.**

The following Appendices contained in the *International Building Code* are deleted their entirety:

Appendix A, Employee Qualifications;
Appendix B, Board of Appeals;
Appendix D, Fire Districts;
Appendix G, Manufactured Homes;
Appendix H, Signs; and
Appendix I, Patio Covers.

Appendices C, E, F, and J contained in such Code are hereby adopted.

Section 4. **Future Amendments**. Future amendments of said *International Building Code*, 2003 Edition, not including clarifications or technical notices of any type, are not adopted by this Ordinance and must be subsequently approved and adopted by the City Council.

Section 5. **Effect of Code**. This Code shall not be construed to relieve or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the City Council, the City, its agents or representatives assume any such liability by reason of these regulations or the inspections authorized by this Code or any permits or certificates issued under this code.

Section 6. **Penalty**. Any person, corporation, or entity who or which violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed $2,000. Each day in which any violation shall occur, or each occurrence of any violation, shall constitute a separate offense.

Section 7. **Repealer**. Ordinance No. 02-887, passed and approved the 21st day of August, 2002, as amended, and all ordinances or parts of ordinances inconsistent or in conflict herewith, are, to the extent of such inconsistency or conflict, hereby repealed.

Section 8. **Severability**. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, AND APPROVED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, HELD ON THE 19th DAY OF OCTOBER, 2005.

Mike Dinges, Mayor

ATTEST:

Kathy Mayfield, City Secretary

John Smart - AYE
Colice Watts - AYE
Owen Bement - AYE
Bill Archer - AYE
J.B.Collins - AYE

ORDINANCE NO. 05-933

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS PROVIDING FOR THE ADOPTION OF *THE INTERNATIONAL RESIDENTIAL CODE,* 2003 EDITION, AS PUBLISHED BY THE INTERNATIONAL CODE COUNCIL, INC.; PROVIDING FOR REGULATIONS RELATING TO THE CONSTRUCTION, ALTERATION, ENLARGEMENT, AND REPAIR OF RESIDENTIAL BUILDINGS AND STRUCTURES WITHIN THE CITY; PROVIDING CERTAIN AMENDMENTS AND DELETIONS TO SAID *INTERNATIONAL RESIDENTIAL CODE*; ESTABLISHING FEES FOR THE ISSUANCE OF PERMITS; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED $2,000 FOR EACH VIOLATION OF ANY PROVISION HEREOF; REPEALING ORDINANCE NO. 02-888 PASSED AND APPROVED ON THE 21ST DAY OF AUGUST, 2002 AND ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.

* * * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. **The International Residential Code**. The *International Residential Code*, 2003 Edition, hereinafter sometimes referred to as the "Code," as published by the International Code Council, Inc., is hereby adopted. A copy of said Code is attached hereto and made a part hereof for all purposes, an authentic copy of which has been filed with the City Secretary.

Section 2. **Amendments to the International Residential Code**.

(1) Section R103 of said Code is hereby deleted in its entirety and a new Section R103 is substituted therefor as follows:

> "**R103 Department of Building Safety**. The enforcement of this code shall be under the administrative and operational control of the building official. The building official shall have such duties, and shall be selected and serve in the position at the pleasure of the City Council and may be removed without cause by City Council. The building official may appoint deputies to assist him/her, subject to City Council approval. Said deputies shall serve at the pleasure of the City Council and may be removed without cause by City Council."

(2) Section R104 of said Code is hereby deleted in its entirety and a new Section R104 is substituted therefor as follows:

"**R104 Duties and Powers of the Building Official.**

R104.1 General. The building official is hereby authorized and directed to enforce all of the provisions of this code. The building official shall have the power to render interpretations of this code and to adopt and enforce written rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this Code.

R104.2 Right of Entry. When it is necessary to make an inspection to enforce the provisions of this Code, or when the building official has reasonable cause to believe that there exists in a building or upon its premises a condition which is contrary to or in violation of this code which makes the building or premises unsafe, dangerous, or hazardous, the building official may request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

R104.3 Stop Orders. Whenever any work is being done contrary to the provisions of this code the building official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall stop work until authorized in writing by the building official to proceed with the work.

R104.4 Modifications. When there are practical differences involved in carrying out the provisions of this Code, the building official may grant modifications for individual cases. The building official must find that a special reason makes the strict letter of this Code impractical and that modification is in conformance with the intent and purpose of this code, and that such modification does not lessen accessibility, health, life and fire safety, or structural integrity. The details of any action granting modifications shall be written and recorded and entered in the files of the City.

R104.5 Alternate Materials, Alternative Design and Methods of Construction. The provisions of this code are not intended to prevent the use of a material, alternate design, or method of construction not specifically prescribed by this Code, provided any alternate has been approved by the building official.

The building official may approve any such alternate, provided the building official finds that the proposed material, design, or method is

satisfactory and complies with the provisions of this Code and that the material and method of work offered is, for the purpose intended, at least equivalent of that prescribed in this code in suitability, effectiveness, fire resistance, durability, and safety.

The building official shall require that sufficient written evidence or proof be submitted to substantiate any claims that may be made regarding an alternate. The details of any action granting approval of an alternate shall be written and recorded and entered in the files of the City.

R104.6 Tests. Whenever there is insufficient evidence of compliance with any of the provisions of this code or evidence that any material or work does not conform to the requirements of this Code, the building official may require tests as proof of compliance to be made at no expense to the City.

Test methods shall be as specified by this Code or other recognized test standards. If there are no recognized and accepted test methods for the proposed alternate, the building official shall determine test procedures.

All tests shall be made by an approved agency. Reports of such tests shall be retained by the building official for the period required for the retention of public records.

(3) Section R105.2 of said Code is hereby amended by deleting exemptions listed as numbers 1 through 5 under the heading "Building."

(4) Section R105.5 of said Code is hereby deleted in its entirety and a new Section R105.5 is substituted therefor as follows:

"R105.5 Expiration: No construction schedule. Every permit issued shall become invalid unless the work at the site authorized by such permit is commenced within 180 days after its issuance. The building official is authorized to grant, in writing, an extension or extensions of such permit, provided the maximum term of said permit shall not exceed one and one-half (1-1/2) years. If any permitted work is not completed within this limitation, then the permit shall become invalid and must be reissued in order to resume work, together with payment of fees for such reissued permit."

(5) Section R105 of said Code is hereby amended by adding a new Section R105.10, which provides as follows:

"**R105.10 Liability Insurance**. The person or entity that will actually perform the work or services covered by a permit shall provide to the City evidence of comprehensive general liability insurance, issued by a company licensed to do business in Texas, in the following amounts, for the duration of the permit, and shall furnish certificates of insurance to the City as evidence thereof. The certificates shall provide that the insurance shall not be canceled, reduced, or changed without 30 days advance notice to the City.

> Comprehensive general liability insurance covering all risks associated with the work, with a minimum bodily injury limit of $100,000, $300,000 per occurrence, and a property damage limit of $400,000, or a property damage limit equal to or exceeding the amount of the contract amount, whichever is greater."

(6) Section R108 of the Code is amended by adding to section R108.2 the following provision:

"**R108.2 Schedule of permit fees**. Fees shall be charged in accordance with the City's Fee Schedule, as it may be amended from time to time."

(7) Section R108 of said Code is hereby amended by adding a new Section R108.6, which provides as follows:

"**R108.6 Work commencing before permit issuance**. The fee for work commenced without a permit shall be double the fee set forth in the fee schedule adopted by the City."

(8) Section R110.1 of said Code is deleted in its entirety and a new Section R110.1 is substituted therefor, which provides as follows:

"**R110.1 Use and Occupancy**. No Building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefor as provided herein.

Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the City. Certificates presuming to give authority to violate or cancel the provisions of this code or other ordinances of the City shall not be valid."

(9) Section R112.1 of the Code is hereby deleted and new Section 112.1 is substituted therefor as follows:

> **"112.1. Appeals**. Appeals of orders, decisions, or determinations made by the City's building official in interpreting or applying this Code shall be to the City Council. The City Council may obtain the assistance of persons who are qualified by experience and training on a particular subject under consideration."

(10) Section R112.3 of the Code is hereby deleted in its entirety.

(11) Section R113 of the Code is deleted in its entirety and the penalty provision of this Ordinance is substituted in its place.

(12) Sections R905.7 and R905.8 of the Code are deleted in their entirety and a new Section R905.7 is substituted therefor as follows:

> **"R905.7 Wood Shingles and Shakes**
>
> (a) Allowed roof coverings of any structure regulated by this Code shall be as provided in this Section.
>
> (b) Wood shingles and shakes are not allowed, shall not be allowed as an alternative material, and shall not be installed or used on any new construction or re-roofing of any structure.
>
> Existing structures which have wood shingles or shakes may be repaired with fire-retardant shingles or shakes of a comparable grade; however, owners shall have the option of installing any allowed Class A, Class B, or Class C roofing material, over the existing wood shingles and shakes, providing the existing roof structural system is adequate for modification. "Repair" means the replacement of damaged or destroyed shingles or shakes, provided the area repaired does not exceed twenty-five percent (25%) of the square foot surface area of the roof. A wood shingle or shake roof may not be replaced with wood shingles or shakes in increments which are undertaken as repairs."

Section 3. **Appendices**.

The following Appendix contained in the Code is deleted its entirety:

"Appendix E, Manufactured Housing Used As Dwellings"

Appendices A through D, and F through K contained in the Code are hereby adopted.

Section 4. **Future Amendments**. Future amendments (not including clarifications or technical notices of any type) of said *International Residential Code,* 2003 Edition, are not adopted by this Ordinance, and must be subsequently approved and adopted by the City Council.

Section 5. **Effect of Code**. This Code shall not be construed to relieve or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the City Council, the City, its agents or representatives assume any such liability by reason of these regulations or the inspections authorized by this code or any permits or certificates issued under this code.

Section 5. **Penalty**. Any person, corporation, or entity who or which violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed $2,000. Each day in which any violation shall occur, or each occurrence of any violation, shall constitute a separate offense.

Section 6. **Repealer**. Ordinance No. 02-888 passed and approved on the 21st day of August, 2002, and all ordinances or parts of ordinances inconsistent or in conflict herewith, are, to the extent of such inconsistency or conflict, hereby repealed.

Section 7. **Severability**. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas,

declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, AND APPROVED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, HELD ON THE 19th DAY OF OCTOBER 2005.

Mike Dinges, Mayor

ATTEST:

Kathy Mayfield, City Secretary

John Smart	-	AYE
Colice Watts	-	AYE
Owen Bement	-	AYE
Bill Archer	-	AYE
J.B. Collins	-	AYE

ORDINANCE #05-934

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS GRANTING A PETITION FOR THE INCLUSION OF CERTAIN LAND IN FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 182.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR:

Section 1. Attached to this ordinance and made a part hereof is a petition requesting the city's consent that certain land be included in Fort Bend County Municipal Utility District No. 182.

Such petition is hereby ganted.

Section 2. This ordinance shall be passed on the date of its introduction, this the 19th day of October, 2005, and shall take effect immediately upon its passage and approval by the Mayor.

PASSED, APPROVED AND ADOPTED this 19 day of October 2005.

Mayor of the City of Fulshear

ATTEST:

Kathy Mayfield
City Secretary

John Smart - AYE
Bill Archer - AYE
Owen Bement – AYE
Colice Watts - AYE
J.B. Collins - AYE

PETITION FOR CONSENT TO INCLUDE LAND IN A MUNICIPAL UTILITY DISTRICT

TO THE HONORABLE MAYOR AND
CITY COUNCIL OF THE CITY OF FULSHEAR:

The undersigned, hereinafter called "Petitioner", being the holder of title to a majority in value of the lands hereinafter described, as such values are indicated by the tax rolls of Fort Bend County, Texas, acting pursuant to the provisions of Section 54.016, Texas Water Code, as amended, respectfully petitions for the inclusion of land in a municipal utility district, hereinafter called "District". In support of this petition for consent to include said lands within the District, Petitioner shows as follows:

I.

The name of the District will be FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 182.

II.

The area of the land to be included in the District contains 718.42 acres, more or less, and lies wholly within Fort Bend County, Texas. All of said area is within the extraterritorial jurisdiction of the City of Fulshear and is not within the corporate limits or extraterritorial jurisdiction of any other city. Petitioner hereby certifies that the lienholders executing this petition below are the only holders of liens against the land to be included in the District.

III.

The land sought to be included within the area of the District is described by metes and bounds in Exhibit "A" attached hereto and incorporated herein by reference for all purposes:

IV.

The District will be created and organized under the terms and provisions of Article XVI, Section 59 of the Constitution of Texas and Chapter 49 and Chapter 54 of the Texas Water Code, as amended. The purposes of and the general nature of the work proposed to be done by the District shall be the purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances necessary to:

(1) provide a water supply for municipal uses, domestic uses and commercial purposes;

(2) collect, transport, process, dispose of and control all domestic, industrial or communal wastes whether in fluid, solid or composite state;

(3) gather, conduct, divert and control local storm water or other local harmful excesses of water in the District and the payment of organization expenses, operational expenses during construction and interest during construction; and

(4) provide such other facilities, systems, plants and enterprises as shall be consonant with the purposes for which the District is created and permitted under state law including, but not limited to, facilities designed or utilized to perform fire-fighting services and improvements, and facilities and equipment for the purpose of providing parks and recreational facilities to the extent authorized and permitted under state law.

V.

There is a necessity for the improvements above described for the following reasons: The area of the District is urban in nature, is within the growing environs of the City of Houston, and is in close proximity to populous and developed sections of Fort Bend County. The District's area will, within the immediate future, experience a substantial and sustained residential and commercial growth. Said area is not supplied with adequate water and sanitary sewer facilities and services or with adequate drainage facilities and does not have adequate roads, fire suppression facilities or parks and recreational land and facilities. The health and welfare of the future inhabitants of the area and of territories adjacent thereto require the installation and acquisition of an adequate water supply and sewage disposal system, an adequate drainage system for and within the area of the District, adequate roads, adequate fire suppression facilities and adequate parks and recreational land and facilities.

A public necessity exists for the organization of such District to provide for the purchase, construction, extension, improvement, maintenance and operation of such waterworks and sanitary sewer system, such drainage facilities, such fire suppression facilities and parks and recreational land and facilities, and such other facilities as may be provided by the District under the laws of the State of Texas in order to promote and protect the purity and sanitary condition of the State's waters and the public health and welfare of the community.

VI.

It is now estimated by those filing this petition, from such information as they have at this time, that the ultimate cost of the development contemplated will be approximately $55,000,000.

WHEREFORE, Petitioner respectfully prays that this petition be granted in all respects and that the City of Fulshear give its written consent to the inclusion of the aforesaid land in said District.

(Remainder of this page intentionally left blank)

Dated this 23rd day of August, 2005.

700 Deerfield Katy, L.P., a Texas limited liability company

By: Danale Holdings, Inc., a Texas corporation and its general partner

By: _____
Avi Ron, President

"PETITIONER"

THE STATE OF TEXAS §
§
COUNTY OF FORT BEND §

This instrument was acknowledged before me on this the 23rd day of August, 2005, by Avi Ron, President of Danale Holdings, Inc., a Texas corporation and the general partner of 700 Deerfield Katy, L.P., a Texas limited liability company on behalf of said entities.

ANITA CAGLE
Notary Public, State of Texas
My Commission Expires
October 29, 2008

Anita Cagle
Notary Public in and for the State of Texas

The undersigned, being a lienholder on all or a portion of the property described in the foregoing Petition consents to the creation of FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 182 over the land which is more particularly described in said Petition, and to the filing of said Petition with the City of Fulshear, Texas.

DEERFIELD OPPORTUNITIES FUND, LLC,
A Delaware limited liability company

By: Deerfield Capital Management, LLC, its managing member

Scott Roberts
President

THE STATE OF Illinois §
§
COUNTY OF Cook §

This instrument was acknowledged before me on this the 31 day of August, 2005, by Scott Roberts, the President of Deerfield Capital Management, LLC, the managing member of Deerfield Opportunities Fund, LLC, a Delaware limited liability company, on behalf of said limited liability company.

OFFICIAL SEAL
SHARON TSE
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES: 10/01/05

Sharon Tse
Notary Public in and for
the State of Illinois

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ORDINANCE NO. 05-935

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, ESTABLISHING RULES AND REGULATIONS GOVERNING THE CONSTRUCTION, ERECTION, MAINTENANCE AND USE OF SIGNS WITHIN THE CORPORATE LIMITS OF THE CITY; APPLICATION OF RULES AND REGULATIONS TO CITY'S EXTRATERRITORIAL JURISDICTION; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED $2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; REPEALING ORDINANCE NO. 04-909, ADOPTED THE 21st DAY OF APRIL, 2004 AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

* * * * * * * * * * *

WHEREAS, the City Council of the City of Fulshear, Texas (the "City") finds that the unregulated construction and erection outdoor signs, billboards and other structures designed to make an announcement to the general public can create structural hazards and can present impediments and dangers to traffic along City roadways and easements, and

WHEREAS, the City Council of the City of Fulshear finds that portable signs present special traffic hazards when towed on public streets or displayed on public rights-of-way and present dangers to the health and safety of the citizens of the City;

WHEREAS, the City Council of the City of Fulshear recognizes that protection of the City's visual environment will benefit both residential and commercial property owners and will promote a positive image of the City; and

WHEREAS, the City Council desires to promote the reasonable, orderly, and effective display of signs and to ensure that signs to not create or become hazards; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are found to be true and correct.

Section 2. The City of Fulshear, Texas (the "City"), adopts this Ordinance that establishes rules and regulations relating to the construction, erection, maintenance and use of signs within the City.

Section 3. Definitions. The following terms, when used in this Ordinance, shall have the meanings ascribed to them herein, except where the context clearly indicates a different meaning:

Ancillary sign shall mean a sign which conveys information regarding a service, facility, or product subsidiary or ancillary to the main or principal business use of a property, such as telephone signs, restroom signs, credit card signs, open signs, or signs displaying the hours of operation for the business or entity.

Monument sign shall mean any sign mounted on the ground or supported by one or more columns, poles, uprights, or braces anchored in the ground, but not elevated above the ground by any device that holds the sign off the ground and not attached to any building, including reader panels.

Non-commercial sign shall mean a sign that contains a non-commercial message only.

Non-commercial message shall mean a civic, political, religious, seasonal, or personal message that is not displayed for a fee, for compensation, or for the promotion of a product, service or other business, and is located on property owned or lawfully occupied by the person displaying the message.

Off-premise sign shall mean any sign, which directs attention to a business, person, activity, good, product, service, or entertainment sold or offered elsewhere than on the premises where such sign appears.

Portable sign shall mean any sign designed or constructed to be easily moved from one location to another, including signs mounted upon or designed to be mounted upon a trailer, wheeled carrier, or other nonmotorized mobile structure. A portable sign which has its wheels removed shall still be considered a portable sign hereunder.

Sign shall mean any structure, part thereof, or inscription which is located upon, attached to, or painted or represented on any land, or on the outside of any building or structure, or on an awning, canopy, marquee, or similar appendage, or permanently affixed to the glass on the outside of the building or structure, and which displays or includes any numeral, letter, word, model, banner, emblem, insignia, symbol, device, monogram, heraldry, trademark, light, or other representation used as or in the nature of an announcement, advertisement, attention arrestor, direction, warning, or designation of any person, firm, group, organization, corporation, association, place, commodity, product, service, business, establishment, profession, enterprise, industry, activity, or any combination thereof; where the word sign is used herein without further modification, the same shall be understood to embrace all regulated signs and replicas.

Snipe sign shall mean a sign which is tacked, nailed, posted, pasted, glued, or otherwise attached to a tree, stake, fence, utility pole, or other like object, the advertising matter of which is not applicable to the present use of the premises on which the sign is located.

Temporary sign shall mean any sign constructed of materials with short life expectancies. A portable sign shall not necessarily be considered a temporary sign.

Wind device sign shall mean any flag, pennant, banner, streamer, balloon, inflatable device or similar-type object made of cloth, canvas, nylon, plastic, or other flexible material, with or without a frame or other supporting structure, that moves, or is intended to move or blow with the wind.

Section 4. Form, structure, construction and maintenance of signs.

A. Purpose. It is the stated purpose of this ordinance to allow reasonable signage for commercial and free speech activities, while managing the structural and aesthetic elements of such communication.

B. Design. All signs permitted by this ordinance shall be designed and constructed in one of two formats. All signage shall be approved by Planning Commission prior to construction.

1. Monument Signs. Monument signs shall be constructed to substantially appear as a solid mass, such as cylinder, block, rectangle, or square from ground level to the highest portion of the sign, otherwise commonly known as Monument Signs. The bottom portion of the sign shall rest flush against the ground, allowing no space between the ground and the bottom of the sign structure. The portion of the sign

containing the message shall not exceed seventy-two (72) total square feet of area. The total height of the sign, including the sign structure and the portion containing the message of the sign, shall not exceed ten feet (10'). If one commercial property contains more than ten (10) different businesses and has more than 350' of road frontage, the property shall be allowed two (2) monument signs at that location, both of which must comply in all respects with this Ordinance.

2. Façade or Wall Signs. Façade or wall signs shall be allowed provided there is no more than one (1) such sign per street frontage for each business located within a discreet portion of a building. Façade or wall signs may be mounted or painted upon the wall, and must be maintained in good condition at all times. The sign shall contain ~~only~~ information identifying the business located on the site. The sign area shall not exceed ten percent (10%) of the area of the façade or wall on which it is mounted or painted.

B. Maintenance. All signs within the City shall be erected and maintained in compliance with all applicable federal and state statutes and regulations and with the building code, electrical code, and other applicable ordinances of the City. In the event of conflict between this ordinance and other statutes, regulations or ordinances, the most restrictive standard shall apply. All signs shall be kept in good repair and neat appearance. Maintenance shall be performed on all signs at reasonable intervals, and shall include replacement of defective parts, painting, repainting, and cleaning. The owner of a sign and the owner of the property upon which the sign is located shall be jointly and severally responsible for the sign's maintenance and repair. The Mayor of the City, or his designee, shall inspect all signs on a regular basis and shall require maintenance or repair of any sign deemed in violation of this Section.

Section 5. **Prohibited signs.** It is unlawful for any person to construct, erect, install, construct, display, maintain, reconstruct, place, locate, relocate or make use of any of the following signs within the City:

A. Revolving or moving signs.

B. Signs that contain or have attached thereto banners, posters, pennants, ribbons, streamers, strings of light bulbs, spinners, flash tags, or other similar devices.

C. Portable signs.

D. Snipe signs.

E. Signs located on a roof or otherwise attached to or painted on a building if it projects above the highest point on the building.

F. Signs, or any portion thereof, that are located on or project or extend over any public sidewalk, street, alley, or other public property.

G. Signs that are deteriorated, dilapidated, or unsafe.

H. Signs that contain statements, words, or pictures of an obscene, indecent, or immoral character as will offend public morals or decency.

I. Signs located on or attached to a streetlight, utility pole, fire hydrant, bridge, traffic-control device, street sign, or other building, facility, structure or equipment owned by the City without the prior written consent of the City.

J. More than one ground-mounted monument sign for any lot or development site, or for any individual shopping center or strip center; provided, however, if a lot or development site, shopping center or strip center has frontage on two public streets, one ground-mounted monument sign shall be permitted for each such street frontage.

K. Signs that do not comply with this Ordinance or other ordinances of the City.

L. Signs located or illuminated so that they obscure or interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the view of approaching, emerging or intersecting traffic, or prevent any traveler on any street from obtaining a clear view of approaching vehicles.

M. Illuminated signs which:

1. Are illuminated to such intensity or without proper shielding so as to constitute a hazard to the operation of motor vehicles upon a public street or substantially interfere with the reasonable enjoyment of residential property; or

2. Have any type of intermittent illumination, including flashing, fading, revolving or blinking lights, or any type of moving, traveling or changing message by means of lights or illumination.

N. Any sign that violates any sight visibility regulations of the City.

O. Signs located in public rights-of-way.

P. Signs placed on private property without the consent of the owner or person in possession of the property.

Q. Off-premise signs.

R. Wind Device Signs

Section 6. **Exceptions.** This Ordinance shall not apply to the following types of signs:

A. **Governmental signs**. Any sign:

1. Erected or maintained pursuant to and in discharge of any governmental function;

2. Required by law, ordinance or governmental regulation; or

3. Located on property owned, leased, or under the control of any federal, state or local governmental entity or subdivision thereof.

B. **Private traffic control signs**. Signs on private property containing no advertising that direct the movement of traffic, warn of obstacles or overhead clearances, or control parking, including entrance and exit signs.

C. **Railway signs**. Any sign on property owned by a railroad placed or maintained in reference to the operation of the railway.

D. **Utility and hazard signs**. Any sign marking utility or underground communication or transmission lines or pipes and hazards.

E. **Plaques**. Historical and commemorative plaques of recognized historical societies and organizations, provided that such signs are less than fifteen (15) square feet in total area.

F. **Mailboxes, and addresses.** Addresses and names printed on a standard size on mailbox.

G. **Vehicle signs**. Signs displayed or used upon motor vehicles and trailers, unless the vehicle or trailer is permanently stationed or regularly used at a fixed location to serve the same or similar purpose of a permanent or portable sign.

H. **Real estate signs**. Signs not exceeding six (6) square feet in total area per sign face pertaining to the sale or rental of the property on which they are displayed, provided, however, that no more than one such sign for each street frontage shall be permitted. Provided, however, that "For Sale" or "For Lease" signs located on undeveloped property greater than 10 acres shall be no larger than eight feet (8') in height above natural grade by eight feet (8') in width. The real estate agent posting the sign must have an exclusive listing to market the subject property, or permission to install the sign from the owner of the land on which the sign is located.

I. **Athletic field signs**. Signs located on the field side of scoreboards and fences of athletic fields.

J. **National or state flags**. A national or state flag, or both, provided that they do not exceed thirty-six (36) square feet in total area.

K. **Holiday signs and lights**. Temporary signs, including Christmas lights, containing only holiday messages and no commercial advertising.

L. **Non-commercial signs**. Signs advertising or promoting a candidate or proposition in conjunction with an election, or otherwise containing a non-commercial message, provided that:

1. No non-commercial sign shall be erected before forty-five (45) days before the election date on which the office or proposition is to be determined;

2. All such non-commercial signs shall be removed within seven (7) days following the election on which the office or proposition is finally determined in accordance with the Texas Election Code;

3. No such non-commercial sign shall exceed sixteen (16) square feet in total area nor exceed six feet (6') in height above natural ground level; and

4. Such temporary non-commercial sign shall otherwise comply with all provisions of this Ordinance.

M. **Property identification signs.** Any sign erected at the entrance of acreage or residential property that identifies the property by name of the property or by name of the owner, as in the case of farm or ranch identification signs.

N. **Temporary Banners**. One temporary sign, in the form of a banner, not to exceed five feet (5') in height or thirty-two (32) total square feet in sign area may be displayed on nonresidential property by a new business for a period not to exceed ninety (90) days. One temporary sign, in the form of a banner, not to exceed five feet (5') in height or thirty-two (32) total square feet in sign area may be displayed on nonresidential property for a period not to exceed seven (7) days in a calendar quarter. The seven days per calendar quarter permitted by this subsection shall not accumulate from calendar quarter to calendar quarter.

A permit for the placement of a temporary banner allowed by this subsection shall not be required, provided, however, that any person who erects a temporary banner shall register said banner with the City providing the date on which said banner was first placed on site. The location of banner must comply with permit application at all times. Any person who registers a temporary banner allowed by this subsection shall pay to the City a non-refundable fee in the amount of twenty-five dollars ($25.00).

O. **Non-profit announcement signs.** Signs announcing events or programs by a not-for-profit organization not to exceed five feet (5') in height or thirty-two (32) total square feet in sign area, so long as the sign is erected no more than fourteen (14) days prior to the event being announced and is removed no more than seven (7) days following the event.

A permit for the placement of a non-profit announcement sign allowed by this subsection shall not be required, provided, however, that any person who erects a non-profit announcement sign shall register said sign with the City providing the date on which said sign was first placed on site. Any person who registers a non-profit announcement sign allowed by this subsection shall pay to the City a refundable fee in the amount of twenty-five dollars ($25.00). This registration fee will be returned upon proof that

the non-profit announcement sign has been removed within the time specified by this subsection.

P. **Temporary Construction – Announcement Signs.** An office or retail business shall be permitted to construct a temporary sign announcing the prospective opening of the business at that site while the business is under the permitting process and/or construction. Such temporary construction signs shall be erected for a maximum of six (6) months and shall be no larger than eight feet (8') in height above natural grade by eight feet (8') in width.

Q. **Ancillary Signs.** A business or other entity shall be allowed up to three (3) ancillary signs placed on the door or exterior wall or window of the premises. No permit will be required under this Ordinance for such ancillary signs. All ancillary signs shall be no larger than four square feet (4') in total sign area.

Section 7. **Obsolete signs.** Signs which have been abandoned or have become obsolete due to the closing of a business, change in the nature or name of the business establishment, or for any other reason rendering the sign nonapplicable to the property upon which it is displayed, shall be removed by the owner of the building or premises upon which it is situated within sixty (60) days from the date of the action that caused the sign to be abandoned or become obsolete.

Section 8.

A. Signs lawfully in existence as of the effective date of this ordinance pursuant to City Ordinance No. 602 passed and approved on the 19th day of November, 1991, shall be considered and deemed as lawfully existing nonconforming signs and may be continued as such. Notwithstanding the foregoing, the person or entity who is in ownership or control of the property on which such sign is located shall be required to register such signs with the City, at no fee, and otherwise comply with all requirements of this Ordinance relating to nonconforming signs and sign structures.

B. Lawfully existing nonconforming signs shall be kept in good repair and visual appearance and no structural or message alterations shall be made thereto. In the event that more than fifty-percent (50%) of the area of a lawfully existing nonconforming sign is damaged or changed, the sign shall be removed, made to conform or replaced with a conforming sign.

C. When a nonconforming sign is replaced, the replacement sign must comply in all respects with this Ordinance.

D. The installation of any new sign is prohibited on a site while a non-conforming sign remains in use.

Section 9. Application to extraterritorial jurisdiction. The regulations established this Ordinance are hereby applicable to all signs located in the extraterritorial jurisdiction of the City, as established by Chapter 42 of the Texas Local Government Code.

Section 10. Permits. It is unlawful for any person to place, locate, relocate, erect, construct, replace or alter the size or shape of any sign, including the face or other integral part thereto, or to thereafter make use of a sign without having first obtained a sign permit from the City, except as otherwise provided in this Ordinance.

Section 11. Permit exemptions. A sign permit is not required:

A. To repaint a sign or to restore a conforming sign to its original condition if the sign otherwise complies with this Ordinance;

B. To periodically change only the letters, numbers or message portion of a lawful sign specifically designed for that purpose; or

Section 12. Application and permits. The application for a sign permit, together with an application fee in the amount of seventy-five and no/100 dollars ($75.00), shall be submitted on such forms provided by the City and must be accompanied by the information, drawings and descriptive data required by the City Secretary to ensure proper regulation of the sign and the ensure compliance with this Ordinance. The permit application fee required by this section shall not be required for noncommercial signs, but noncommercial signs shall comply with this Ordinance in all other respects.

Section 13. **Issuance of permits.** If the plans and specifications for a sign set forth in any application for a permit conform to all of the requirements of this Ordinance, and any other applicable City regulations, the City Secretary shall issue the appropriate permit.

Section 14. **Duration.** Unless earlier revoked, a sign permit to construct, erect, locate, or place is valid for 180 days from the date of issuance.

Section 15. **Revocation.** A sign permit may be revoked for violation of this Ordinance. The City Secretary shall give prior written notice of a proposed revocation to the permittee and an opportunity to respond to the reasons for revocation within ten (10) days of said written notice. The permit shall not be revoked prior to the expiration of ten (10) days from the date of such written notice.

Section 16. **Appeal.** Any person aggrieved by a decision of the City Secretary in the application of this Ordinance may appeal the decision to the Planning Commission of the City by delivering, in writing, a notice of appeal stating therein the decision complained of and the reasons for appeal. The Planning Commission shall hear the appeal at its next regularly scheduled meeting; provided, however, that the appeal shall be heard within thirty (30) days of the filing of the appeal. Any decision of the Planning Commission with respect to an appeal heard under this section may be further appealed to the City Council of the City in the same manner the appeal was made to the Planning Commission. The City Council shall hear the appeal at its next regularly scheduled meeting; provided, however, that the appeal shall be heard within thirty (30) days of the filing of the appeal.

Section 17. **Penalty**. Any person, corporation, or entity who or which intentionally, knowingly, recklessly or with criminal negligence violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to

exceed $2,000. Each day in which any violation shall occur, or each occurrence of any violation, shall constitute a separate offense.

Section 18. **Repealer**. Ordinance No. 04-909 originally passed and approved the 21st day of April, 2004 is hereby repealed. All other ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 19. **Severability.** In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 16th day of November 2005.

J. Michael Dinges, Mayor

ATTEST:

Kathy Mayfield, City Secretary

John Smart -	AYE
J. B. Collins -	AYE
Bill Archer -	AYE
Owen Bement -	AYE
Colice Watts -	AYE